



UPDATE REPORT

THE AMERICAN RECOVERY AND REINVESTMENT ACT: Sources of Funding for Renewable Energy Projects

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The American Recovery and Reinvestment Act of 2009 (“ARRA”), the \$787 billion economic stimulus package, provides a number of new and expanded tax incentives related to renewable energy projects in the wind, solar, biomass, and biofuel industries, among others, and creates new funding avenues for projects and technologies in each of these industries.

Extension of “Eligibility Dates” for PTC. ARRA extends the production tax credit (“PTC”) eligibility for facilities producing electricity from wind, solar, closed-loop biomass, and open-loop biomass renewable energy. A facility “placed in service” on or before December 31, 2013 will qualify for the PTC (for wind facilities, December 31, 2012). Qualified projects will receive a per kilowatt hour credit, currently indexed at 2.1¢ for 2009, for every kilowatt hour generated and sold to a third-party person during each year of the 10-year period beginning on the date the project is originally placed in service.

Election to Claim Investment Tax Credit (“ITC”) in Lieu of PTC. ARRA allows a taxpayer who is eligible to claim the PTC for a renewable energy project to instead claim an ITC. The ITC allows for a 30% credit on the cost of “qualified property” used in a renewable energy facility, and it may be claimed for renewable energy facilities “placed in service” before January 1, 2014 (for wind facilities, January 1, 2013). If the facility fails to use its entire credit, any unused portion can be carried back one tax year and carried forward up to 20 tax years. Any owner electing to claim an ITC must reduce the facility’s tax basis by one-half of the credit claimed.

The owner of a qualifying renewable energy facility may elect to claim either the ITC or the PTC, but not both. On June 5, 2009, the IRS issued Notice 2009-52, describing the procedures for making an irrevocable ITC election in lieu of a PTC election. The Notice is available [here](#).

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Grants in Lieu of Tax Credits. In addition to expanding benefits for, and access to, tax credits, ARRA also enables taxpayers to elect to receive a cash grant from the U.S. Treasury Department in lieu of tax credits. Eligibility for grants is based on the same criteria as eligibility for the ITC or PTC. Qualified property will be eligible for a cash amount equal to either 10% or 30% of the cost of the property. Even after the Treasury Department issued guidance on July 9, 2009, a number of uncertainties remain related to the administration of the cash grant program. For a thorough treatment of the program, complete with its advantages and disadvantages, please consult the Brown Rudnick client alert, published [here](#).

Advanced Energy Facilities Investment Credit.

To encourage the development of a domestic manufacturing base to support the renewable energy industry, ARRA provides a new 30% tax credit to businesses investing in a “qualified advanced energy manufacturing project.” Qualified projects include those that establish, re-equip, or expand manufacturing facilities engaged in, among other things, the production of renewable energy. ARRA will fund such projects up to \$2.3 billion. Credits will be awarded through an application process, and procedures to apply will be made available by August 16, 2009 through the Treasury Department.

Expanded Energy Bonds. ARRA increases funding for energy bonds. For renewable energy bonds, available for financing renewable energy facilities, ARRA increases the amount of funds available for issuing new clean renewable energy bonds from

\$800 million to \$2.4 billion. For qualified energy conservation bonds, used to fund governmental programs aimed at reducing greenhouse gases and promoting conservation, the cap has been raised from \$800 million to \$3.2 billion.

Expanded DOE Loan Guarantee Program.

ARRA infused an additional \$6 billion into the existing DOE Loan Guarantee Program, resulting in an estimated \$60 billion in support for “qualified programs.” The Energy Policy Act of 2005 that originally established this loan program defines a qualified program as one that employs a “new or significantly improved technology that is not a commercial technology.” Under ARRA, qualified programs now include commercial technology projects for renewable energy systems that will commence construction no later than September 30, 2011.

Opportunities in the Wind Industry. In April 2009, Secretary Chu [announced](#) plans to provide \$93 million from ARRA to support further development of wind energy in the United States. As of June 25, 2009, there are two wind energy projects for which the Department of Energy has solicited applications in connection with ARRA funding. One project, issued June 24, 2009, involves the development of a wind turbine drivetrain testing facility. The \$45 million financial assistance grant will be awarded on a competitive basis to an applicant that includes organizational participants from one or more states and universities. More details are available [here](#). A second project, issued June 2 and available to consortia led by an institution of higher learning, provides \$24 million, to be divided in 2-3 grants, for

the development of consortia between universities and industry to focus on critical wind energy challenges. The application for this project is available [here](#).

Opportunities in the Solar Industry. In May 2009, President Obama [announced](#) the investment of over \$467 million from ARRA to fund projects that expand and accelerate the development, deployment, and use of geothermal and solar energy throughout the United States. For a discussion of the funding opportunities available in the solar energy industry on account of ARRA, please see a previously published Brown Rudnick client alert, available [here](#). As of June 25, 2009, there are four solar energy projects for which the Department of Energy has solicited applications in connection with ARRA funding. One project, issued June 11, 2009, invests up to \$22 million in 24 discrete Photovoltaic Supply Chain Management and Cross-Cutting Technologies sub-projects. More information on each of the sub-projects is available [here](#), and the application is available [here](#). A second project, issued May 28, 2009, valued at \$3 million, and open to any applicant, seeks to revive basic science research, specifically seeking research for “Novel Materials and Device Development for High Efficiency Solar Photovoltaics.” The application process for this project is available [here](#). A third project, issued June 11, 2009 and open to any applicant, invests \$5 million in project(s) related to infrastructure technology. The application may be accessed [here](#). Finally, a project restricted to DOE National Laboratories and worth \$4.5 million, seeks qualified applicants to research manufacturing and technology transfer capabilities. The application is available [here](#).

Opportunities in the Biomass and Biofuels Industry. In May 2005, Secretary Chu [announced](#) plans to provide \$786.5 million from ARRA to fund commercial-scale biorefinery demonstration projects and advanced biofuel research and development projects. As of June 25, 2009, there is one biomass project for which the Department of Energy has solicited applications in connection with ARRA funding. The project, issued June 11, 2009 and open to all applicants, broadly solicits proposals for renewable energy research, development, demonstration, and deployment activities, which includes accelerating the development of biomass technologies. The program is currently funded at \$480 million, with individual awards capped at \$50 million. The application is available [here](#). In addition to this project, the Department of Energy has announced plans to launch an additional funding opportunity in summer 2009. The project, funded at \$85 million, targets the expansion of infrastructure for ethanol blends. Information on this proposed project is available [here](#).

Updated information on these and all funding opportunities under ARRA are available to the public at [FedConnect](#) and [Grants.gov](#).

New York

Seven Times Square
New York, NY 10036
+1.212.209.4800
+1.212.209.4801 [fax]

Boston

One Financial Center
Boston, MA 02111
+1.617.856.8200
+1.617.856.8201 [fax]

Washington, DC

601 Thirteenth Street NW,
Suite 600
Washington, DC 20005
+1.202.347.2222
+1.202.347.4242 [fax]

Hartford

City Place I
185 Asylum Street
Hartford, CT 06103
+1.860.509.6500
+1.860.509.6501 [fax]

Providence

121 South Main Street
Providence, RI 02903
+1.401.276.2600
+1.401.276.2601 [fax]

London

8 Clifford Street
London, W1S 2LQ
United Kingdom
+44.20.7851.6000
+44.20.7851.6100 [fax]

Dublin

Alexandra House
The Sweepstakes
Ballsbridge, Dublin 4
Ireland
+353.1.664.1738
+353.1.664.1838 [fax]

www.brownrudnick.com

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For further information, please contact:

Paul G. Afonso
+1.617.856.8430
pafonso@brownrudnick.com

Patrick M. Cox
+1.212.209.4949
pcox@brownrudnick.com

Mark A. Dorff
+44.20.7851.6005
mdorff@brownrudnick.com

Alan N. Forman
+1.212.209.4812
aforman@brownrudnick.com

Jonathan W. Renfrew
+1.202.536.1722
jrenfrew@brownrudnick.com

Howard L. Siegel
+1.860.509.6519
hsiegel@brownrudnick.com

John W. Wadsworth
+1.617.856.8596
jwadsworth@brownrudnick.com

Nicole M. Bouchard contributed to this Alert.

