

Executive Summary

Key Provisions Benefiting the Solar Energy Industry in *H.R. 1, the American Recovery and Reinvestment Act of 2009*

The key provisions have been placed in categories to reflect how solar energy companies, their clients or the industry in general will benefit from and gain access to specific funding for solar projects.

- **Federal guidance pending:** Agency guidance in the next 60 to 90 days; member alerts will be issued accordingly.
- **Tax code provision:** Effective upon enactment unless noted otherwise; Solar Tax Manual will be updated.
- **Enhanced funding for existing State programs:** Federal funds will be directed to States for distribution. State agencies will provide access to funds.
- **Agency specific appropriations:** Funds directed to specific agencies for programs or projects that are most likely already in the pipeline.

To access the citations below:

Div. A http://www.seia.org/galleries/pdf/Recovery_Bill_Div_A.pdf

Div. B http://www.seia.org/galleries/pdf/Recovery_Bill_Division_B.pdf

Federal guidance pending:

Renewable Energy Grants

- Creates a new program through the Department of Treasury that provides grants equal to 30 percent of the cost of solar property placed in service during 2009 and 2010, in lieu of the section 48 investment tax credit. The section 48 tax credit applies only to commercial and utility scale projects. (Div. B, Sec. 1104, p. 38) Property that is not placed in service prior to December 31st, 2010 qualifies for the grant program as long as construction begins prior to December 31st, 2010 and is placed in service by January 1, 2017. Applications must be filed by October 1, 2011. (Div. B, Sec. 1603, p. 153) Key details such as what constitutes an application and “begins construction” will be defined in the near future by the Treasury Department.
- <http://www.ustreas.gov/contacts.shtml>

Renewable Energy Loan Guarantee Program

- Establishes a temporary DOE loan guarantee program for renewable energy projects, renewable energy manufacturing facilities and electric power transmission projects. Appropriates \$6 billion to pay the credit subsidy costs, which should support \$60 billion worth of loan guarantees. Eligible renewable projects are those that generate electricity or thermal energy and facilities that manufacture related components. Projects must commence construction by September 30, 2011. Davis-Bacon wage requirements (prevailing federal wage) apply to any project receiving a loan guarantee. (Div. A, p. 63 & p. 77) <http://www.energy.gov/contact/index.htm>

Renewable Energy Manufacturing Investment Credit

- Provides up to \$2.3 billion to fund 30 percent investment tax credit for manufacturing assets used to manufacture of advanced energy property. Projects must be certified by the Treasury, in consultation with the Secretary of Energy, through a competitive application process. Effective upon enactment. (Div., B, Sec. 48 C, p. 102)
<http://www.energy.gov/contact/index.htm>

Solar on Federal Property

- Appropriates \$5.5 billion to be deposited into the Federal Buildings Fund for expenditures to construct, repair and make alterations on federal buildings to increase energy efficiency, including installing solar energy equipment. \$4.5 billion shall be available for measures necessary to convert GSA facilities to high-performance green buildings. (Div. A, Title V, General Services Administration, p. 88)
- Appropriates \$1 billion for non-recurring maintenance on Veterans Affairs facilities, including energy projects. (Div. A, p. 213)
<http://www.gsa.gov/Portal/gsa/ep/home.do?tabId=6>

Smart Grid

- The legislation provides up to 50% reimbursement to smart grid demonstration projects in urban, suburban, tribal, and rural areas, including areas where electric system assets are controlled by nonprofit entities or investor owned utilities. The Secretary of Energy is also required to maintain a smart grid information clearinghouse. As a condition of qualification, demonstration projects are required to use open protocols and standards. (Div. A, Section 405, p. 72)
<http://www.energy.gov/contact/index.htm>

Tax code provisions effective upon enactment:

Repeals Penalty for Subsidized Renewable Energy Financing

- Allows businesses and individuals to qualify for the full amount of the solar tax credit, even if projects receive subsidized energy financing (e.g. below market loans, tax preferred bonds, state grants etc.). This amendment shall apply to periods after Dec. 31, 2008. (Div. B, Sec. 1103, p.36)

Removes Limits on Solar Water Heating

- Section 25D provides a personal tax credit for the purchase of qualified solar water heating property that is used for a purpose other than heating swimming pools and hot tubs. The 30 percent ITC has a monetary cap of \$2,000. This provision removes the \$2,000 cap, providing a full 30 percent credit for qualified solar water heating property. The credit may be claimed against the alternative minimum tax. (Div. B, Sec. 1122(a), p. 46)

Extends Bonus Depreciation

- The bill extends a 50% "depreciation bonus," or the ability to deduct half the cost of a equipment immediately, to equipment completed during 2009 and on some equipment installed in 2010. The bonus is a limited-time offer to encourage companies to invest in new plant and equipment. It was also available during 2008. Half the cost of the equipment is deducted immediately when the equipment is placed in service. The remaining cost is depreciated normally. The bonus can only be claimed on equipment put to commercial use. (The 50% bonus actually translates in the case of a solar project into the ability to

deduct 42.5% of the cost immediately, and the other 42.5% of the cost is depreciated normally. That's because the "tax basis" that the owner has in a solar project must be reduced by half the investment credit or cash grant.) A company cannot claim a bonus on any equipment to which it was committed before January 1, 2008. A bonus can also be claimed on equipment completed in 2010 that has a "recovery period" of at least 10 years, but only if the equipment is expected to take at least a year to construct and will cost more than \$1 million. Solar projects have recovery periods of five years. However, a bonus might be claimed on the transmission equipment at such a project if the project has a long enough construction period and is completed in 2010. (Div. B, Sec. 1201, p. 69)

• **5-Year Carryback of Net Operating Losses**

- For tax years 2008 and 2009, extends the maximum carryback period for net operating losses from two years to five years. Eligible small business may elect to increase the carryback period for an applicable 2008 NOL from two years to any whole number of years elected by the taxpayer that is more than two and less than six. An eligible small business is a taxpayer meeting a \$15,000,000 gross receipts test. (see Sec. 448(c)) An applicable NOL is the taxpayer's NOL for any taxable year ending in 2008, or if elected by the taxpayer, the NOL for any taxable year beginning in 2008. However, any election under this provision may be made only with respect to one taxable year. (Div., B. Sec. 1211, p. 74)

Remedy for AMT and R&D Credits in Lieu of Bonus Depreciation

- Where a taxpayer is in a loss position, deductions in excess of income are unable to enjoy the benefit of bonus depreciation. This provision extends the allowance in the Foreclosure Prevention Act of 2008 that permits AMT and loss taxpayers to receive 20% of the value of their old AMT or R&D credits to the extent such taxpayers invest in assets that qualify for bonus depreciation. The amount is capped at the lesser of 6% of outstanding and unused AMT and R&D credits or \$30 million. The extension of the additional first-year depreciation deduction is generally effective for property placed in service after December 31, 2008. The extension of the election to accelerate AMT and research credits in lieu of bonus depreciation is effective for taxable years ending after December 31, 2008. (Div. B, Sec 1201(b), p. 71)

Smart Grid

- The legislation provides a 30% tax credit for property designed to produce energy conservation technologies (including energy-conserving lighting technologies and smart grid technologies) (Div. B, Section 48C, Page 10)

Enhanced funding for existing State programs:

Department of Energy Funding

- Appropriates \$16.8 billion to DOE's Office of Energy Efficiency and Renewable Energy, including \$2.5 billion for applied research, development, demonstration, and deployment projects. (Div. A, p. 59 and Joint Statement A, p. 24) The total amount includes specific appropriations for the following:
 - Conservation block grants \$3.2 billion
 - Weatherization \$5.0 billion
 - State Programs \$3.1 billion
 - Batteries \$2.0 billion

New Clean Renewable Energy Bonds ("New CREBs")

- Provides an additional \$1.6 billion for new clean renewable energy bonds to finance facilities that generate electricity from renewable energy sources including solar facilities. (Div. B, Sec. 1111, p. 39)

Qualified Energy Conservation Bonds

- Authorizes an additional \$2.4 billion, up from \$800 million, in bonds to finance State, municipal and tribal government programs to reduce greenhouse gas emissions. These bonds can be used by government agencies to reduce energy consumption in publicly-owned buildings by at least 20 percent, implement green community programs, or develop electricity from renewable energy resources. Demonstration projects that reduce peak electrical use also qualify. Public education campaigns to promote energy efficiency can also be funded. (Div B, Sec. 1112, Page 40)

Solar for Schools

- Appropriates \$53.6 billion to a state fiscal stabilization fund. Specifies that states shall use 18.2% of this money for public safety and other government services, including the renovation of facilities and schools to meet green building standards. Solar energy projects qualify. (Div. A, Sec. 14001-14002, pp. 425-429)

Green Collar Jobs

- Appropriates \$500 million to fund job training programs in energy efficiency and renewable energy. (Div. A, Title VIII, p. 148) Also appropriates \$250 million for rehabilitation and construction projects on Job Corps Centers, including energy efficiency and renewable energy projects. (Div. A, Title VIII, p. 150)

Solar Water Treatment Plants

- Provides \$6 billion for the State and Tribal Assistance Grants account (\$4 billion for the Clean Water State Revolving Funds and \$2 billion for the Drinking Water State Revolving Funds). To ensure that the funds are used immediately to create jobs, the money must be committed to projects under contract or construction within 12 months of the date of enactment.
- The bill requires that not less than 20 percent of each Revolving Fund be available for projects to address green infrastructure, water and/or energy efficiency, or other environmentally innovative technologies. The bill allows States to use less than 20 percent for these types of projects only if the States lack sufficient applications. (Div A, Title VII, p. 137)

Agency specific appropriations:

Department of Interior Funding

- Appropriates \$125 million to BLM for the management of lands and resources and suggests funds be used for renewable energy rights-of-way and related permitting projects. (Div. A, Title VII Interior, p. 133)

Electric Transmission Infrastructure

- Allows Western Area Power and Bonneville Power Administrations to borrow funds (up to \$3.25 billion each) to construct or finance transmission lines. (Div. A, Sec. 408, p. 65) Directs the DOE to include analysis of renewable energy sources, including solar, in its 2009 National Electric Transmission Congestion Study. (Div. A, Sec. 408, p. 80)

Solar for the Military

- Appropriates \$300 million for DOD research, development, testing and evaluation of projects to improve energy generation, transmission, and energy efficiency. (Div. A, Title X, p. 48)
- Appropriates an additional \$100 million for Navy and Marine Corps facilities, and further specifies that funds are for energy efficiency and alternative energy projects. (Div. A, Title X, p. 196)