



# AMERICAN RECOVERY AND REINVESTMENT ACT

U.S. DEPARTMENT OF THE TREASURY

## ARRA Section 1603 – Grants For Specified Energy Property In Lieu of Tax Credits

September, 2009





# Statutory Provisions

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- Requires Treasury to make payment to persons who place in service specified energy property
- Specified energy property is property described in sections 45 and 48 of the Internal Revenue Code: includes closed-loop and open-loop biomass facilities described under section 45 of the IRC
- Property must be subject to amortization or depreciation – i.e. must be for a business use



# Statutory Provisions

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- Property must be placed in service during 2009 or 2010; or placed in service after 2010 but before a statutory deadline (January 1, 2013; January 1, 2014; or January 1, 2017 depending on the type of property) but only if construction began in 2009 or 2010. Biomass facilities must be placed in service by January 1, 2014
- The amount of the payment is the applicable percentage (30% for biomass) of the tax basis of the property



# Statutory Provisions

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- Payments may not be made to federal, state or local governments or agencies or instrumentalities thereof; tax-exempt non-profit organizations; clean renewable energy bond issuers; or any partnership or other pass-thru entity any partner or interest holder of which is one of the entities listed above



# Statutory Provisions

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- Applications must be received before October 1, 2011.
- Payments must be made within 60 days from the later of the date the property is placed in service or the date of the application
- Statute appropriates all sums as may be necessary to carry out the program.



# Statutory Provisions

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- Payment recipients cannot claim tax credit under section 45 or 48 for the same property
- Payment is not taxable income
- Treasury shall apply rules to the cash assistance program similar to the rules of section 50 of the IRC



# Program Guidance

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- Published on July 9, 2009. Establishes application procedures and further defines and clarifies statutory requirements



# Program Guidance

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- Allows for the use of “blocker corporations”
- Allows leasees to claim the payment under certain circumstances
- Defines placed in service as property that is ready and available for its specified use
- Defines beginning of construction as when physical work of a significant nature begins; includes 5% safe harbor





# Program Guidance

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- Requires that property must be used predominantly in the United States
- Requires that the original use of the property must begin with the applicant
- Sets our rules for determining basis
- States that if the property is sold to a disqualified entity or ceases to be used as energy property, payment will be recaptured.



# Program Guidance

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- Davis Bacon, NEPA and other requirements generally applicable to federal grant programs do not apply. Treasury in consultation with OMB determined that program is not “federal financial assistance” because it is in lieu of tax credits.

# Requirements for Biomass Facilities

- Closed-Loop Biomass facility: uses closed-loop biomass to produce electricity.
- Closed-loop biomass is any organic material from a plant that is planted exclusively for purposes of being used at a qualified facility to produce electricity
- May include modifications to an existing facility modified to use closed-loop biomass to co-fire with coal, other biomass or both.

# Requirements for Biomass Facilities

- Open-loop biomass: facility that uses open-loop biomass to produce electricity.
- Open-loop biomass includes bovine, swine, poultry and sheep manure and litter; or any solid, nonhazardous, cellulosic waste material or lignin material derived from a qualified source
- Does not include a facility that co-fires with fossil fuel

# Requirements for Biomass Facilities

- For both closed-loop and open-loop biomass, facility includes property used at the plant site for unloading, transfer, storage, reclaiming from storage or preparation of the material to be processed at the plant.
- Facility does not include similar property located away from the plant. Slurry pipelines, trucks, railroad cars and barges that transport biomass to the facility are not part of the facility.

# Biomass – Eligible Basis

- For facilities that burn fuel other than biomass, eligible cost basis is the percentage of total eligible costs equal to the percentage of the electricity produced at the facility that is attributable to the biomass.
- This limitation does not reduce the basis of a facility that qualifies as a modification to an existing facility.

# Biomass - Recapture

- If payment based on a percentage of the electricity produced at the facility that is attributable to biomass and this percentage is reduced, a proportionate percentage of the property ceases to be qualified energy property



# Program Administration

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- Applicants apply through an on-line web-based application that was made available on July 31, 2009.
- For property placed in service in 2009 or 2010 application should be submitted after property is placed in service and before October 1, 2011.
- For property not placed in service in 2009 or 2010 application should be submitted after construction has begun and before October 1, 2011





# Program Administration

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- Applicants required to submit supporting documentation including an accountant's certification as to costs for larger projects. Open-loop biomass using agricultural waste nutrients must show nameplate capacity
- Applicants sign Terms and Conditions that require payment recipients to agree to post-payment audits and compliance monitoring
- An application is not considered complete until all supporting documentation is submitted and Terms and Conditions are signed



# Program Administration

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- If application is incomplete, applicant will be notified and given 21 days to submit additional information



# Awarded Applications by Energy Type

Energy	Number of Applications	Amount Awarded
Biomass	1	\$10,232,261
Combined Heat	1	\$415,774
Geothermal	2	\$61,520,872
Landfill Gas	3	\$11,738,368
Solar	14	\$4,932,483
Wind	16	\$964,179,701
Total	37	\$1,053,019,459