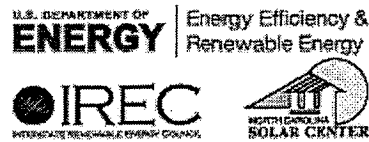


DSIRETM

Database of State Incentives for Renewables & Efficiency

01/24/2012



Federal

Incentives/Policies for Renewables & Efficiency

Renewable Electricity Production Tax Credit (PTC)

Last DSIRE Review: 06/03/2011

Program Overview:

State: Federal

Incentive Type: Corporate Tax Credit

Eligible Renewable/Other Technologies: Landfill Gas, Wind, Biomass, Hydroelectric, Geothermal Electric, Municipal Solid Waste, Hydrokinetic Power (i.e., Flowing Water), Anaerobic Digestion, Small Hydroelectric, Tidal Energy, Wave Energy, Ocean Thermal

Applicable Sectors: Commercial, Industrial

Amount: 2.2¢/kWh for wind, geothermal, closed-loop biomass; 1.1¢/kWh for other eligible technologies. Generally applies to first 10 years of operation.

Eligible System Size: Marine and Hydrokinetic: Minimum capacity of 150 kW
Agricultural Livestock Waste: Minimum capacity of 150 kW

Carryover Provisions: Unused credits may be carried forward for up to 20 years following the year they were generated or carried back 1 year if the taxpayer files an amended return.

Expiration Date: Varies by technology

Web Site: <http://www.irs.gov/pub/irs-pdf/f8835.pdf>

Authority 1: 26 USC § 45

Date Enacted: 1992 (subsequently amended)

Summary:

Note: *The American Recovery and Reinvestment Act of 2009 (H.R. 1) allows taxpayers eligible for the federal renewable electricity production tax credit (PTC) to take the federal business energy investment tax credit (ITC) or to receive a grant from the U.S. Treasury Department instead of taking the PTC for new installations. The grant is only available to systems where construction began prior to December 31, 2011. The new law also allows taxpayers eligible for the business ITC to receive a grant from the U.S. Treasury Department instead of taking the business ITC for new installations. The Treasury Department issued Notice 2009-52 in June 2009.*

take the federal business energy investment tax credit instead

HOUSE ENERGY AND UTILITIES
DATE: 1.24.2012

production tax credit.

The federal renewable electricity production tax credit (PTC) is a per-kilowatt-hour tax credit for electricity generated by qualified energy resources and sold by the taxpayer to an unrelated person during the taxable year. Originally enacted in 1992, the PTC has been renewed and expanded numerous times, most recently by H.R. 1424 (Div. B, Sec. 101 & 102) in October 2008 and again by H.R. 1 (Div. B, Section 1101 & 1102) in February 2009.

The October 2008 legislation extended the in-service deadlines for all qualifying renewable technologies; expanded the list of qualifying resources to include marine and hydrokinetic resources, such as wave, tidal, current and ocean thermal; and made changes to the definitions of several qualifying resources and facilities. The effective dates of these changes vary. Marine and hydrokinetic energy production is eligible as of the date the legislation was enacted (October 3, 2008), as is the incremental energy production associated with expansions of biomass facilities. A change in the definition of "trash facility" no longer requires that such facilities burn trash, and is also effective immediately. One further provision redefining the term "non-hydroelectric dam," took effect December 31, 2008.

The February 2009 legislation revised the credit by: (1) extending the in-service deadline for most eligible technologies by three years (two years for marine and hydrokinetic resources); and (2) allowing facilities that qualify for the PTC to opt instead to take the federal business energy investment credit (ITC) or an equivalent cash grant from the U.S. Department of Treasury. The ITC or grant for PTC-eligible technologies is generally equal to 30% of eligible costs.*

The tax credit amount is 1.5¢/kWh in 1993 dollars (indexed for inflation) for some technologies, and half of that amount for others. The rules governing the PTC vary by resource and facility type. The table below outlines two of the most important characteristics of the tax credit -- in-service deadline and credit amount -- as they apply to different facilities. The table includes changes made by H.R. 1, in February 2009, and the inflation-adjusted credit amounts are current for the 2011 calendar year. (See the history section below for information on prior rules.)

Resource Type	In-Service Deadline	Credit Amount
Wind	December 31, 2012	2.2¢/kWh
Closed-Loop Biomass	December 31, 2013	2.2¢/kWh
Open-Loop Biomass	December 31, 2013	1.1¢/kWh
Geothermal Energy	December 31, 2013	2.2¢/kWh
Landfill Gas	December 31, 2013	1.1¢/kWh
Municipal Solid Waste	December 31, 2013	1.1¢/kWh
Qualified Hydroelectric	December 31, 2013	1.1¢/kWh
Marine and Hydrokinetic (150 kW or larger)**	December 31, 2013	1.1¢/kWh

The duration of the credit is generally 10 years after the date the facility is placed in service, but there are two exceptions:

- Open-loop biomass, geothermal, small irrigation hydro, landfill gas and municipal solid waste combustion facilities placed into service after October 22, 2004, and before enactment of the

Energy Policy Act of 2005, on August 8, 2005, are only eligible for the credit for a five-year period.

- Open-loop biomass facilities placed in service before October 22, 2004, are eligible for a five-year period beginning January 1, 2005.

In addition, the tax credit is reduced for projects that receive other federal tax credits, grants, tax-exempt financing, or subsidized energy financing. The credit is claimed by completing Form 8835, "Renewable Electricity Production Credit," and Form 3800, "General Business Credit." For more information, contact IRS Telephone Assistance for Businesses at 1-800-829-4933.

History

As originally enacted by the *Energy Policy Act of 1992*, the PTC expired in July 1999, and was subsequently extended through the end of 2001 by the *Ticket to Work and Work Incentives Improvement Act of 1999* in December 1999. The PTC expired again at the end of 2001, but was then extended again in March 2002 as part of the *Job Creation and Worker Assistance Act of 2002* (H.R. 3090). The PTC then expired yet again at the end of 2003 and was not renewed until October 2004, as part of H.R. 1308, the *Working Families Tax Relief Act of 2004*, which extended the credit through December 31, 2005. The *Energy Policy Act of 2005* (H.R. 6) modified the credit and extended it through December 31, 2007. In December 2006, the PTC was extended for yet another year -- through December 31, 2008 -- by the *Tax Relief and Health Care Act of 2006* (H.R. 6111).

The American Jobs Creation Act of 2004 (H.R. 4520), expanded the PTC to include additional eligible resources -- geothermal energy, open-loop biomass, solar energy, small irrigation power, landfill gas and municipal solid waste combustion -- in addition to the formerly eligible wind energy, closed-loop biomass, and poultry-waste energy resources. The *Energy Policy Act of 2005* (EPAct 2005) further expanded the credit to certain hydropower facilities. As a result of EPAct 2005, solar facilities placed into service after December 31, 2005, are no longer eligible for this incentive. Solar facilities placed in-service during the roughly one-year window in which solar was eligible are permitted to take the full credit for five years.

**Prior to H.R. 1, geothermal facilities were already eligible for a 10% tax credit under the energy ITC (26 USC § 48). However, the new legislation permits all PTC-eligible technologies, including geothermal electric facilities, to take a 30% tax credit (or grant) in lieu of the PTC. Recent guidance from the IRS regarding the Treasury grants in lieu of tax credits indicates that geothermal facilities that qualify for the PTC are eligible for either the 30% investment tax credit or the 10% tax credit, but not both. The window for the 30% tax credit runs through 2013, the in-service deadline for the PTC, while the 10% tax credit under the section 48 ITC does not have an expiration date.*

***H.R. 1424 added marine and hydrokinetic energy as eligible resources and removed "small irrigation power" as an eligible resource effective October 3, 2008. However, the definition of marine and hydrokinetic energy encompasses the resources that would have formerly been defined as small irrigation power facilities. Thus H.R. 1424 effectively extended the in-service deadline for small irrigation power facilities by 3 years, from the end of 2008 until the end of 2011 (since extended again through 2013).*

Contact:

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