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SOLAR INDUSTRY CALLS FOR EXTENSION OF TREASURY GRANT PROGRAM

The solar energy industry is calling on Congress to extend the sunset date for a cash grant program authorized in the stimulus law for renewable electricity projects, arguing that a delay in the Treasury Department's implementation of the program is eroding its job-creating potential and that a sunset extension is needed to ensure projects are eligible. The solar industry push comes amid an otherwise favorable response to the program, with many industry insiders arguing that Treasury has gone out of its way to make the program very attractive to renewable developers.

On July 9, the Treasury and Energy Departments issued guidance, a sample application and other materials for the much-anticipated cash grant program designed to compensate for the lack of appetite for the renewable energy production tax credit and the solar energy investment tax credit, both of which have become much less valuable due to the economic recession.

Under the program, renewable energy project developers can apply for a cash grant worth up to 30 percent of the project cost rather than electing a tax credit for the initial project investment or a tax credit for the ongoing production of electricity. The agencies estimate the program will support 5,000 renewable energy projects costing \$3 billion.

But industry sources say Treasury is unlikely to begin accepting applications for the grants until August, six months after the program was initially authorized, and the Solar Energy Industries Association (SEIA), citing the delays, is calling on Congress to extend the date by which projects must be under construction to receive the credit. As the program now stands, a project must be placed in service or begin construction in 2009 or 2010 to be eligible for the grant.

"With delays in releasing the Treasury and other guidelines, we call on Congress to include a one-year extension of the grant program project sunset-date in the energy bill currently being debated so that the program meets the intended goals for jobs and investment," according to a statement released by the organization.

A spokesperson for the Solar Electric Power Association says because major utility scale solar projects have long lead times, "it would certainly help" a number of projects if the date were pushed back a year. "Many of the projects announced are very large scale," the spokesperson says, making it difficult to get a project up a running in such a short period, especially when considering lengthy delays in transmission approvals.

While noting the delays, a D.C.-based attorney with Hunton & Williams LLP says Treasury has been liberal in its implementation of the stimulus statute, arguing that at nearly every step of the way it has sought to provide extra assistance to project developers. For example, the attorney notes that the guidance says if a project developer were to sell the facility shortly after it is placed in service, "there is no recapture or repayment [of the grant to the federal government] required." One condition, however, is that the facility must be sold to an entity eligible for the grant.

This gives the project developers "a great deal of flexibility" in using the grant, more so than the investment tax credit, for example, which does require recapture if a project is sold shortly after it is placed in service, he says.

A source in the wind industry says "a number of wind developers do have a build and sell model" and were "concerned [Treasury] would require recapture if you sold [the facility] within 5 years." The source says there is potential that it might join SEIA in requesting an extension in the program, but for now the industry is "still digesting" the long-awaited announcement.

The Hunton & Williams attorney also notes that the guidance defines construction in a way that assists project developers who have just begun construction at the end of 2010, noting that if there are many units in a facility (like 100 wind turbines), as long as a few were under construction by the end of 2010, the project developer would be eligible for a grant worth 30 percent of the entire project.

A renewable energy lobbyist emphasizes the importance of the program given that renewable electricity standard proposals pending on Capitol Hill are not aggressive when compared with existing state programs and that "tax credits are about as valuable as confederate money" due to the economic downturn and the lack of tax liability for many companies. The source says it is "unquestionable" that Treasury has gone out of its way to "provide very robust" financial assistance in the program, adding that Treasury tends to be fiscally conservative in crafting programs like this.