

New Clean Renewable Energy Bonds (New CREBs)
April 2009

New CREBs were initially authorized by the Energy Improvement and Extension Act of 2008 and are codified in Section 54C of the Internal Revenue Code of 1986, as amended (the “Code”). The original Federal allocation for the New CREBs program was \$800 million, and the American Recovery and Reinvestment Tax Act of 2009 increased the allocation to a total of \$2.4 billion.

New CREBs are very similar to the original CREBs authorized by the Energy Policy Act of 2005 and codified in Section 54 of the Code. However, there are some significant differences between the two programs. For example, the tax credit rate for the New CREBS has been reduced and the allowed costs of issuance payable from bond proceeds has also been reduced.

Type of Debt. A New CREB is a tax credit bond. Issuers repay principal on a regular schedule, but generally do not pay interest. Instead, the holder of a New CREB receives a federal tax credit in lieu of interest. The tax credit accrues quarterly and may be applied against the holder’s regular and alternative minimum tax liability; however, the tax credit amount is treated as taxable interest income to the holder of the New CREBs. For example, if the tax credit amount is \$100 and the holder is in the 35% tax bracket, the credit provides a \$65 benefit to the holder.

Amount of Tax Credit. The tax credit amount is set by the Treasury on a daily basis and can be found on-line at https://www.treasurydirect.gov/govt/rates/irs/rates_qtcb.htm. The amount has been reduced from the original CREB program and is 70% of the rate set by the Treasury for qualified tax credit bonds. In theory, New CREBs could provide a borrower with a 0% interest rate, but it is likely that purchasers will require a discount on the New CREB or a supplemental interest payment. Any supplemental interest earned on a New CREB is federally taxable.

Here are the qualified tax credit rates set by Treasury for bonds priced between March 30, 2009 and April 14, 2009. The fourth column is the credit rate for New CREBs (70% of the published rate).

<u>Date</u>	<u>Rate</u>	<u>Maturity</u>	<u>New CREBs Rate</u>
4/14/09	7.89%	14 yrs	5.52%
4/13/09	7.95%	14 yrs	5.57%
4/10/09	7.75%	14 yrs	5.43%
4/9/09	7.75%	14 yrs	5.43%
4/8/09	7.82%	14 yrs	5.47%
4/7/09	7.83%	14 yrs	5.48%
4/6/09	7.75%	14 yrs	5.43%
4/3/09	7.66%	14 yrs	5.36%
4/2/09	7.57%	14 yrs	5.30%
4/1/09	7.64%	14 yrs	5.35%
3/31/09	7.70%	15 yrs	5.39%
3/30/09	7.74%	15 yrs	5.42%

Maturity and Debt Service. Each month the Treasury sets the maximum maturity for New CREBs priced during that month. Generally, the maturity for the original CREBS has been 12-16 years and is likely to be similar for the New CREBs. Unlike in the original CREB program, there is no requirement that principal be repaid in equal annual installments.

Sinking Fund. A reserve/sinking fund expected to be used to repay New CREBs is not subject to arbitrage limitations if (i) it is funded no faster than equal annual installments, (ii) it is funded such that it is not expected to exceed the amount necessary to repay the bonds, and (iii) it is invested at a yield no greater than the permitted sinking fund yield. The permitted sinking fund yield is set daily by Treasury and can be found on-line at https://www.treasurydirect.gov/govt/rates/irs/rates_qtcb.htm.) A reserve/sinking fund may not be financed with proceeds of the New CREBs.

Qualified Issuers. Governmental bodies (including states, U.S. territories and possessions, the District of Columbia, Indian tribal governments, and political subdivisions thereof), cooperative electric companies and clean renewable energy bond lenders may issue New CREBs.

Qualified projects. Qualified projects are facilities described in Section 45(d) of the Code, including: wind energy facilities, open-loop and closed-loop biomass facilities, geothermal energy facilities, solar energy facilities, small irrigation power facilities, landfill gas facilities, trash combustion facilities, and certain hydropower facilities. The project must be owned by a governmental body or a mutual or cooperative electric company.

Allocations. Under Notice 2009-33 released in April 2009, the application process will be identical to the application process for the original CREB program. Applications for New CREB volume cap are attached as an exhibit to the notice and are also available for download at the IRS website at: <http://www.irs.gov/taxexemptbond/article/0,,id=206034,00.html>. Only a Qualified Issuer can apply for New CREB volume cap and applications must be filed with the IRS by August 4, 2009. New CREB volume cap will be allocated to the smallest projects first and previous CREB volume cap allocations will be taken into account in the allocation process. Allocations of volume cap are valid for 3 years after the date of the letter from the IRS granting the allocation. Unused or expired volume cap will revert back to the IRS and will be reallocated by the IRS pursuant to procedures to be published in the future.

Costs of Issuance. Costs of issuance to be paid from New CREB proceeds are limited to 2% of the proceeds of the New CREB. For small transactions, issuers may need to fund the costs of issuance from other sources.

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