

9/23/09



Federal Incentives/Policies for Renewables & Efficiency

Clean Renewable Energy Bonds (CREBs)

Last DSIRE Review: 04/14/2009

Incentive Type: Federal Loan Program

State: Federal

Eligible Renewable/Other Technologies: Solar Thermal Electric, Photovoltaics, Landfill Gas, Wind, Biomass, Hydroelectric, Geothermal Electric, Municipal Solid Waste, Hydrokinetic Power, Anaerobic Digestion, Tidal Energy, Wave Energy, Ocean Thermal

Applicable Sectors: Local Government, State Government, Tribal Government, Municipal Utility, Rural Electric Cooperative

Amount: Varies

Terms: Certain terms for "new" CREBs differ from those for prior allocations. See IRS Notice 2009-33 for details.

Web Site: http://www.irs.gov/irb/2007-14_IRB/ar17.html

Authority 1: [26 USC § 54 \(Old CREBs\)](#)

Date Effective: 08/08/2005

Expiration Date: 12/31/2009

Authority 2: [26 USC § 54A \(New CREBs\)](#)

Date Enacted: 10/03/2008

Date Effective: 10/03/2008

Authority 3: [26 USC § 54C \(New CREBs\)](#)

Date Enacted: 10/03/2008 (subsequently amended)

Date Effective: 10/03/2008

Authority 4: [IRS Notice 2009-33](#)

Date Effective: 04/07/2009

Expiration Date: 08/04/2009

Summary:

Note: *The terms "new" and "old" CREBs are used in the following summary to distinguish between prior CREB allocations and the new CREB authorizations made by the U.S. Congress in 2008 and 2009. The use of the term "new CREBs" has legal significance in that new CREBs authorized under 26 USC § 54A and 54C have substantially different rules than prior CREB allocations authorized under 26 USC § 54.*

Clean renewable energy bonds (CREBs) may be used by certain entities -- primarily in the public sector -- to finance renewable energy projects. The list of qualifying technologies is generally the same as that used for the federal renewable energy production tax credit (PTC). CREBs may be issued by electric cooperatives, government entities (states, cities, counties, territories, Indian tribal governments or any political subdivision thereof), and by certain lenders. CREBs are issued -- theoretically -- with a 0% interest rate.* The borrower pays back only the principal of the bond, and the bondholder receives federal tax credits in lieu of the traditional bond interest.

The [Energy Improvement and Extension Act of 2008 \(Div. A, Sec. 107\)](#) allocated \$800 million for new Clean Renewable Energy Bonds (CREBs). In February 2009, the [American Recovery and Reinvestment Act of 2009 \(Div. B, Sec. 1111\)](#) allocated an additional \$1.6 billion for new CREBs, for a total new CREB allocation of \$2.4 billion. The Energy Improvement and Extension Act of 2008 also extended the deadline for previously reserved allocations ("old CREBs") until December 31, 2009, and addressed several provisions in the existing law that previously limited the usefulness of the program for some projects. A separate section of the law extended CREBs eligibility to marine energy and hydrokinetic power projects.

In April 2009, the IRS issued Notice 2009-33, which solicited applications for the new CREB allocation and provided interim guidance on certain program rules and changes from prior CREB allocations. The expiration date for new CREB applications under this solicitation was August 4, 2009. Further guidance on CREBs is available in

IRS Notices 2006-7 and 2007-26 to the extent that the program rules were not modified by 2008 and 2009 legislation.

Participation in the program is limited by the volume of bonds allocated by Congress for the program. Participants must first apply to the Internal Revenue Service (IRS) for a CREBs allocation, and then issue the bonds within a specified time period. The new CREBs allocation totaling \$2.4 billion does not have a defined expiration date under the law; however, the recent IRS solicitation for new applications requires the bonds to be issued within 3 years after the applicant receives notification of an approved allocation (see History section below for information on previous allocations). Public power providers, governmental bodies, and electric cooperatives are each reserved an equal share (33.3%) of the new CREBs allocation. The tax credit rate is set daily by the U.S. Treasury Department. Under past allocations, the credit could be taken quarterly on a dollar-for-dollar basis to offset the tax liability of the bondholder. However, under the new CREBs allocation, the credit has been reduced to 70% of what it would have been otherwise. Other important changes are described in IRS Notice 2009-33.

CREBs differ from traditional tax-exempt bonds in that the tax credits issued through CREBs are treated as taxable income for the bondholder. The tax credit may be taken each year the bondholder has a tax liability as long as the credit amount does not exceed the limits established by the federal *Energy Policy Act of 2005*. Treasury rates for prior CREB allocations, or "old" CREBs are available [here](#), while rates for new CREBs and other qualified tax credit bonds are available [here](#).

History

The federal *Energy Policy Act of 2005* (EPAct 2005) established Clean Energy Renewable Bonds (CREBs) as a financing mechanism for public sector renewable energy projects. This legislation originally allocated \$800 million of tax credit bonds to be issued between January 1, 2006, and December 31, 2007. Following the enactment of the federal *Tax Relief and Health Care Act of 2006*, the IRS made an additional \$400 million in CREBs financing available for 2008 through Notice 2007-26.

In November 2006, the IRS announced that the original \$800 million allocation had been reserved for a total of 610 projects. The additional \$400 million (plus surrendered volume from the previous allocation) was allocated to 312 projects in February 2008. Of the \$1.2 billion total of tax-credit bond volume cap allocated to fund renewable-energy projects, state and local government borrowers were limited to \$750 million of the volume cap, with the rest reserved for qualified mutual or cooperative electric companies.

For further information on CREBs, contact Zoran Stojanovic or Timothy Jones of the IRS Office of Associate Chief Counsel at (202) 622-3980. Questions on recent IRS Notice 2009-33 can be directed to Janae Lemley at (636) 255-1202.

** In practice, for a variety of reasons, bond issuers have sometimes had to issue the bonds at a discount or make supplemental interest payments in order to find a buyer.*

Contact:

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