Clean Renewable Energy Bonds

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Summary of Clean Renewable Energy Bonds

This document summarizes certain provisions of the Internal Revenue Code and Internal Revenue Service materials relating to Clean Renewable Energy Bonds ("CREBs") and should be read with reference to each of those items.

Legal Authority

CREBs were initially authorized by the Energy Policy Act of 2005 ("EPACT") and are codified in Section 54 of the Internal Revenue Code of 1986, as amended (the "Code"). With the enactment of the Tax Relief and Health Care Act of 2006 (the "Extenders Act"), allocation for the CREBs program was increased from $800,000,000 to $1,200,000,000, and the deadline for issuance of all CREBs allocations, including reallocations of the initial $800,000,000, was extended through December 31, 2008. The enactment of the "Energy Improvement and Extension Act of 2008" on October 3, 2008 extended the issuance date for all CREBs through December 31, 2009. At this time, U.S. Treasury has not published temporary or final regulations for CREBs, but in accordance with IRS Notices 2006-7 and 2007-26, regulations are expected. Each of such notices may be found at http://www.irs.gov/pub/irs-drop/n-06-07.pdf and http://www.irs.gov/pub/irs-drop/n-07-26.pdf, respectively. Notice 2007-26 modifies and supersedes Notice 2005-98.

Purpose, Borrowers and Issuers

The purpose of CREBs is to provide governmental bodies (typically states, D.C., Indian tribal governments, localities, and certain political subdivisions) and mutual and cooperative electric companies, access to interest free capital for certain qualifying renewable energy facilities. Those types of bodies are qualifying borrowers under the statute. Notice 2006-7 provides that future regulations will treat instrumentalities of state and political subdivisions as qualified borrowers, and that the term political subdivision will be interpreted in a manner similar to that for tax-exempt bonds.

The facilities qualifying for CREBs financing include, among others, wind, geothermal, biomass, solar, landfill gas, trash combustion, refined coal production and hydropower, and are described in Section 45(d) of the Code (without regard to placed in service dates). Notice 2006-7 also states that a qualified project includes a facility owned by the qualified borrower that is functionally related and subordinate to the qualifying facility.

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Qualified issuers of CREBs are governmental bodies, mutual or cooperative electric companies and clean renewable energy lenders. Such lenders are entities owned by cooperatives or that have loans outstanding to cooperatives. Notice 2006-7 provides that "on behalf of" issuers may also serve as qualified issuers.

Financial Aspects

CREBs are issued in the form of tax credit bonds, and the buyers receive tax credits. The CREB program is partially based on the Qualified Zone Academy Bond program and incorporates many federal tax-exempt bond principles. The tax credit rate and final maturity of the CREB obligation will be determined by U.S. Treasury on a periodic basis and posted on Treasury's website at https://www.treasurydirect.gov/SZ/SPESRates?type=CREBS. CREBs must be ratably amortized over the life of the issue. Notice 2007-26 provides that a separate credit rate will apply to each principal installment using the rates published for the sale date on the foregoing website. The amount of the CREB tax credit is determined and applied quarterly and is one quarter of the annual rate. The annual rate is the product of the published tax credit rate and the outstanding face amount of the bond. On January 22, 2009 IRS Notice 2009-15 was released that affects the credit rate pricing methodology and modifies Notice 2007-26 in that regard. Notice 2009-15 can be found at http://www.irs.gov/pub/irs-drop/n-09-15.pdf.

The CREB tax credit is included in gross income, and the included amount is treated as gross income. CREBs can be sold to a wide range of investors and an equal amount of the principal of CREBs must be repaid each year while outstanding. CREBs may also be pooled and refinance existing debt for a qualified project so long as the original debt was issued after enactment of EPACT (August 8, 2005).

Moreover, 2007-26 provides that in determining the yield on an issue of CREBs for arbitrage purposes, each of the credit and the credit rate will be ignored. Additionally, the yield restriction exception for investment in non-AMT tax-exempt securities is not applicable to investments of the proceeds of CREBs. Lastly, Notice 2007-26 states that CREBs will be aggregated with other tax-exempt bonds for purposes of determining the eligibility of the CREBs for the $5 million small issuer exemption from rebate.

Significantly, it is expected that future regulations will provide guidance on the implementation of the change in use and remedial action provisions and the arbitrage-investment requirements found in Sections 54(d)(2)(D) and 54(i).

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Qualified Costs

For purposes of Section 54, 95% of the CREB proceeds must be spent on qualifying capital expenditures, and the proceeds must be spent within five years of issuance. There must also be a binding commitment with a third party to spend at least 10% of the proceeds within 6 months of issuance. Like tax-exempt bonds, proceeds of CREBs may be used to reimburse for prior expenditures so long as the borrower adopted a reimbursement resolution. For CREBs, the prior expenditure must have occurred after August 8, 2005.

Allocation

An issuer of CREBs must receive an allocation of issuing authority from the U.S Treasury Secretary. Notice 2005-98 detailed the allocation process for the initial round of $800 million. As mentioned before, that notice has been superceded by Notice 2007-26. The allocation process for the increased allocation under the Extenders Act and reallocation of the initial $800 million is governed by Notice 2007-26, which contains a sample allocation application. As a result of the changes in the Extenders Act, no more than $750 million of allocation may be allocated to qualified borrowers that are governmental bodies.

The application must contain certain information that was not required for first round applications, such as any amount of CREBs previously allocated to the project that is described in the application along with any amounts allocated to "related projects." Related projects are owned by the same borrower or a related party, located on the same site, and integrated, interconnected, or directly or indirectly dependent on each other. The application still requires an engineer to provide a written certification that the project qualifies under Section 54(d)(2)(A).

Any amount of CREBs allocated to a project (including "related projects") in the first round will be taken into account in determining the amount requested in the second round for that project or a related project. Amounts allocated to qualified issuers in the first round that have been relinquished by the qualified issuers prior to July 13, 2007, will be available for reallocation in the second round.

Notice 2007-26 also states that allocation will continue to be awarded based on the smallest dollar amount requested and proceeding with the next smallest dollar amount until the CREB allocation is exhausted.

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Notice 2007-26

Part III - Administrative, Procedural, and Miscellaneous

Notice 2007-26

Section 54 -- Clean Renewable Energy Bonds

SECTION 1. PURPOSE

This Notice solicits applications for allocations of the national bond volume limitation authority ("volume cap"), to issue tax credit bonds called "clean renewable energy bonds" ("CREBs") under section 54(f) of the Internal Revenue Code (the "Code") to finance eligible clean renewable energy projects described in section 45 of the Code. This Notice also provides related guidance on the following: (1) eligibility requirements that a project must meet to be considered for a volume cap allocation; (2) application requirements and the application form for requests for volume cap allocations; (3) the method (generally, a "smallest-to-largest" method) that the Internal Revenue Service ("IRS") and the Treasury Department will use to allocate the volume cap; and (4) certain aspects of the applicable law regarding CREBs and expected regulatory guidance in this area.

Applications for volume cap allocations pursuant to this Notice must be filed in accordance with this Notice by the following application deadline: July 13, 2007.

This Notice *modifies* and *supersedes* Notice 2005-98, 2005-52 I.R.B.1211 (December 11, 2005), which provided guidance on CREBs in connection with the allocation process for the original volume cap authorization under section 54.

SECTION 2. BACKGROUND

Section 1303 of the Energy Tax Incentives Act of 2005, Pub. L. No. 109-58, 119 Stat. 594 (2005) (the "2005 Act"), added section 54 to the Code. Section 54 originally provided for a total national volume cap of $800 million for CREBs to finance eligible clean renewable energy projects and delegated to the Secretary of the Treasury the authority to allocate that volume cap, subject to the constraint that the Secretary could allocate no more than $500 million of that volume cap to qualified borrowers which were governmental bodies (with the balance to be allocated to qualified borrowers which were

cooperative electric companies). Section 54 originally required that CREBs had to be issued by an expiration date of December 31, 2007.

Section 202 of the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432, 120 Stat. 2922 (2006) (the "2006 Act"), amended section 54 in three respects. First, the 2006 Act increased the total national volume cap for CREBs from $800 million to $1.2 billion. Second, the 2006 Act extended the expiration date for the issuance of CREBs under the total authorized national volume cap of $1.2 billion from December 31, 2007, to December 31, 2008. Third, the 2006 Act increased the maximum allocations or reallocations to qualified borrowers which are governmental bodies from $500 million to $750 million (with the balance to be allocated to cooperative electric companies).

Section 54(a) provides that a taxpayer that holds a CREB on one or more credit allowance dates of the bond occurring during any taxable year is allowed as a nonrefundable credit against Federal income tax for the taxable year an amount equal to the sum of the credits determined under section 54(b) with respect to such dates.

Section 54(b)(1) provides that the amount of the credit with respect to any credit allowance date is 25 percent of the annual credit. Section 54(b)(2) provides that the annual credit is the product of (1) the credit rate determined by the Secretary, multiplied by (2) the outstanding face amount of the bond.

Section 54(b)(3) provides that the Secretary shall determine daily a credit rate that shall apply to the first day on which there is a binding, written contract for the sale or exchange of a CREB. The credit rate for any day is the credit rate the Secretary estimates will permit the issuance of CREBs with a specified maturity or redemption date without discount and without interest cost to the issuer.

Section 54(b)(4) provides that the term "credit allowance date" means March 15, June 15, September 15, December 15, and the last day on which the bond is outstanding. Section 54(b)(5) generally provides that if a bond is issued or redeemed, or matures, during the 3-month period ending on a credit allowance date, then the amount of the credit for that credit allowance date is a ratable portion of the credit otherwise determined for that 3-month period.

Section 54(g) provides that gross income includes the amount of the credit allowed to the taxpayer under section 54 (without regard to section 54(c)) and the amount so included is treated as interest income.

Section 54(d) provides that a "clean renewable energy bond" or CREB means any bond issued as part of an issue if: (1) the bond is issued by a qualified issuer pursuant to an

allocation by the Secretary to the issuer of a portion of the volume cap under section 54(f)(2); (2) 95 percent or more of the proceeds of the issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects; (3) the qualified issuer designates the bond for purposes of section 54 and the bond is in registered form; and (4) the issue meets certain requirements described in section 54(h) regarding the expenditure of bond proceeds, including a requirement that the issuer reasonably expects, as of the issue date, that at least 95 percent of the net proceeds will be expended within 5 years.

Section 54(j)(4) defines a "qualified issuer" as: (1) a CREB lender; (2) a cooperative electric company; or (3) a governmental body. Section 54(j)(2) provides that a "CREB lender" is a lender that is: (1) a cooperative that is owned by, or has outstanding loans to, 100 or more cooperative electric companies and was in existence on February 1, 2002; or (2) any affiliated entity controlled by such a lender. Section 54(j)(1) defines the term "cooperative electric company" as a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility that has received a loan or loan guarantee under the Rural Electrification Act. Section 54(j)(3) defines the term "governmental body" as any State, territory, possession of the United States, the District of Columbia, Indian tribal government, or any political subdivision thereof.

Section 54(j)(5) provides that a "qualified borrower" is: (1) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or (2) a governmental body.

Section 54(d)(2) defines the term "qualified project" as any of the following qualified facilities (as determined under section 45(d) without regard to any placed in service date) owned by a qualified borrower: (1) a wind facility under section 45(d)(1); (2) a closed-loop biomass facility under section 45(d)(2); (3) an open-loop biomass facility under section 45(d)(3); (4) a geothermal or solar energy facility under section 45(d)(4); (5) a small irrigation power facility under section 45(d)(5); (6) a landfill gas facility under section 45(d)(6); (7) a trash combustion facility under section 45(d)(7); (8) a refined coal production facility under section 45(d)(8); and (9) a qualified hydropower facility under section 45(d)(9).

Section 54(f)(1), as amended by section 202(a)(1) of 2006 Act, provides that the national volume cap is $1.2 billion. Section 54(f)(2), as amended by section 202(a)(2) of the 2006 Act, provides that the Secretary shall allocate the volume cap among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than $750 million of the national volume cap to finance qualified projects of qualified borrowers that are governmental bodies. The

amendments to section 54 of the Code made by section 202 of 2006 Act apply to bonds issued, and allocations or reallocations of volume cap made, after December 31, 2006.

Section 54(d)(2)(D) provides that, for purposes of section 54(d)(1)(B), which requires qualified borrowers to use at least 95 percent of the proceeds of an issue for capital expenditures for qualified projects, any action that a qualified borrower or qualified issuer takes that is within its control and that causes such proceeds to fail to be used for a qualified project is treated as failing to satisfy that requirement. Section 54(d)(2)(D) further provides that the Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a CREB.

Section 54(k) generally requires that, for a CREB that is a pooled financing bond under section 149(f)(4)(A), borrowers must enter into written loan commitments before the issue date of the CREB.

Section 54(l)(5) requires that the qualified issuer pay and amortize an equal amount of the principal of an issue of CREBs during each calendar year that the issue is outstanding.

Section 54(e)(1) limits the term of a CREB to the maximum term determined by the Secretary under section 54(e)(2). Section 54(e)(2) provides that, during each calendar month, the Secretary shall determine the maximum term for CREBs issued in the following calendar month. The maximum term is the term the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Section 54(e)(2) further provides that such present value shall be determined (1) without regard to the requirement of section 54(l)(5) to amortize the principal of CREBs amortized ratably each year and (2) using a discount rate equal to the average annual interest rate of tax-exempt obligations having a term of 10 years or more that are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

Section 54(i) generally provides that the arbitrage requirements of section 148 applicable to tax-exempt State or local bonds apply to CREBs.

Section 54(l)(6) requires issuers of CREBs to submit information reporting returns to the IRS similar to those required to be submitted under section 149(e) for tax-exempt State or local governmental bonds.

Notice 2006-7, 2006-10 I.R.B. 559 (March 6, 2006), provides guidance regarding certain definitions used for CREB purposes.

SECTION 3. APPLICATION REQUIREMENTS IN GENERAL

Each application for a CREBs volume cap allocation ("Application") must be prepared and submitted in accordance with this section. In order for an Application to comply with this section, among other things, the Application must be prepared in substantially the form attached to this Notice as Appendix A, subject to such minor changes or variations as the IRS and the Treasury Department may approve in their discretion. This notice, including Appendix A, may be found on the IRS web site at http://www.irs.gov/taxexemptbond/index.html or http://www.irs.gov/pub/irs-drop/. By submitting an Application, the applicant agrees to comply with the requirements of this Notice.

a. Qualified issuer. An Application must be submitted by a qualified issuer within the meaning of section 54(j)(4). A "qualified issuer" is: (1) a CREB lender (as defined in section 54(j)(2)); (2) a cooperative electric company (as defined in section 54(j)(1)); or (3) a governmental body (as defined in section 54(j)(3)). An Application must identify the qualified issuer and must demonstrate that the entity constitutes a qualified issuer within the meaning of section 54(j)(4).

b. Signatures. An Application must be signed and dated by, and must include the printed name and title of, an authorized official of the qualified issuer. For purposes of this Notice, the term "authorized official of the qualified issuer" means an officer, board member, employee, or other official of the qualified issuer who is duly authorized to execute legal documents on behalf of the qualified issuer in connection with incurring debt of the qualified issuer (e.g., a mayor, chairperson of a city council, chairperson of a board of directors, county or city administrator or manager, or chief financial officer), similar to the kind of duly authorized official of an issuer who would be authorized to execute documents in connection with an issuer's declaration of official intent to reimburse expenditures from the proceeds of a borrowing under §1.150-2(e).

c. Contact person. An Application must designate one or more persons with knowledge regarding the project, whom the qualified issuer duly authorized to discuss with the IRS any information relating to the Application. The designation must include the designee's name, title, telephone number, fax number, and mailing address. If a designee is not an official or officer of the issuer, the Application must include an executed Form 8821 (Taxpayer Information Authorization), authorizing the disclosure of taxpayer information specifically relating to the Application to the designee.

d. Addresses. An Application must be submitted in one of the following ways: (1) by hard copy in duplicate accompanied by a copy of the application in electronic format on compact disc ("CD") by mail to the Internal Revenue Service (IRS), Attention SE:T:GE:TEB, 1111 Constitution Avenue, NW, PE – 5N3, Washington, D.C. 20224; (2) by hard copy in duplicate accompanied by a copy of the application in electronic format on compact disc ("CD") by hand delivery Monday through Friday between the hours of 8 a.m. and 4 p.m. to the Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, PE – 5N3, Washington, D.C., attention SE:T:GE:TEB; or (3) by electronic submission in PDF format of a copy of a signed original document to the IRS to Tina.F.Hill@irs.gov.

e. Due date. An Application must be filed with the IRS on or before the Application deadline of July 13, 2007.

f. Project description. Each Application must contain the information required by this subsection f.

(i) Qualified borrower. Each Application must identify the qualified borrower expected to own the qualified project. A "qualified borrower" is: (1) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C); or (2) a governmental body (as defined in section 54(j)(3)). The Application must demonstrate that the entity is a qualified borrower within the meaning of section 54(j)(5). If any bond is expected to be a pooled financing bond (within the meaning of section 149(f)(4)(A)), the Application must demonstrate that the qualified issuer will enter into a written loan commitment with each qualified borrower prior to the issue date of the issue of CREBs.

(ii) Qualified project. Each Application must describe in reasonable detail the project or projects to be financed with the proceeds of the CREBs. The Application must demonstrate that each project will constitute a "qualified project" under section 54(d)(2)(A). The Application must indicate the expected date that the acquisition and construction of each project will commence and the expected date that each project will be placed in service. The Application must contain a certification by an independent, licensed engineer that each project will meet the requirements for a qualified facility under section 45(d) (but without regard to section 45(d)(10) and to any placed in service date) and that the project will be technically viable and will produce electricity. If the project is a qualified hydropower facility under section 45(d)(9) producing incremental hydropower production (as defined under section 45(c)(8)(B)), then the certification also must state that the project consists only of efficiency improvements or additions to capacity that produce additional production as described in section 45(c)(8)(B) based on a methodology that would meet Federal Energy Regulatory Commission (FERC) standards. If the project is a qualified hydropower facility under section 45(d)(9)

producing qualified hydropower production that is a nonhydroelectric dam under section 45(c)(8)(C), then the certification also must state that the facility, when constructed, will meet FERC licensing requirements and other applicable environmental, licensing and regulatory requirements.

(iii) Prior allocations and related projects. Each Application must describe the amount of CREB volume cap previously allocated to each project described in the Application and to any "related projects." For purposes of this Notice and the Application, the term "related projects" means projects that are owned by the same qualified borrower, or a "related party" as defined in § 1.150-1(b), located on the same site, and integrated, interconnected, or directly or indirectly dependent on each other, based on all the facts and circumstances ("Related Projects").

(iv) Location of project. The Application must indicate the location of the project.

(v) Regulatory approvals. The Application must describe a plan to obtain all necessary Federal, state and local regulatory approvals for the project.

g. Plan of financing. The Application must contain a reasonably detailed description of the plan of financing for the project, including all reasonably expected sources and uses of financing and other funds, the status of such financing, the anticipated date of bond issuance, the sources of security and repayment for the bonds, the aggregate face amount of bonds expected to be issued for the project, and the issuer's reasonably expected schedule for spending proceeds of CREBs. If the qualified borrower intends to use the proceeds of CREBs, to refinance qualified projects with CREBs, or to reimburse amounts paid with respect to a qualified project, the Application must demonstrate that the requirements under section 54(d)(2)(B) and (C), respectively, will be met.

h. Dollar amount of allocation requested. The Application must specify the dollar amount of the volume cap requested.

SECTION 4. REQUIRED DECLARATIONS IN APPLICATIONS

Each Application submitted under this Notice must include the following declaration signed and dated by an authorized official of the qualified issuer who has personal knowledge of the relevant facts and circumstances: "Under penalties of perjury, I declare that I have examined this document and, to the best of my knowledge and belief, all of the facts contained herein are true, correct, and complete."

SECTION 5. CONSENT TO DISCLOSURE OF ALLOCATION

In order to provide the public with information on how the volume cap authorized by Congress has been allocated and facilitate oversight of the CREB program, the IRS intends to publish the results of the allocation process. The information will be the most useful to the public if it identifies the specific allocations awarded. Pursuant to § 6103, consent is required in order for the Service to disclose identifying information with respect to applicants awarded an allocation. Therefore, the Service requests that each applicant submit with the Application a declaration, consenting to the disclosure by the Internal Revenue Service of the name of the applicant (issuer), the name of the borrower (if other than the issuer), the type and location of the project that is the subject of the Application, and the amount of the CREBs volume cap allocation for such project in the event the project receives an allocation. To provide valid consent, the declaration must be in the form set forth in Appendix B. An applicant is not required to provide a declaration consenting to disclosure in order to receive an allocation. The Service will not publish identifying information with respect to applications that are not awarded an allocation of volume cap.

SECTION 6. VOLUME CAP ALLOCATIONS AND METHODOLOGY

a. In general. Available CREB volume cap under section 54, as amended by the 2006 Act, and any "relinquished volume cap" (as defined in paragraph b. of this section) will be allocated in accordance with this section to qualified projects for which Applications meeting the requirements of this Notice have been filed with the IRS on or before the Application deadline set forth in this Notice. Projects for governmental bodies and mutual or cooperative electric companies described in section 501(c)(12) or 1381(a)(2)(C) will be allocated the full amount of volume cap requested beginning with the project(s) for which the smallest dollar amount of volume cap has been requested and continuing with the project(s) for which the next-smallest dollar amount of volume cap has been requested until the total amount of volume cap has been exhausted. For this purpose, any amount of the volume cap previously allocated to a project will be taken into account by increasing the amount requested for the project in the Application submitted pursuant to this Notice by the amount previously allocated to the project. All applications that meet the requirements described in this notice will be granted according to the methodology set forth above until all applications from governmental bodies have been granted, or up to a maximum of $750 million has been allocated to projects of qualified borrowers that are governmental bodies, whichever occurs first. The remaining volume cap will be allocated under the smallest-to-largest methodology described above to qualified projects of qualified borrowers that are not governmental bodies. For purposes of this section, all Related Projects will be treated as a single project.

b. Relinquished volume cap. For purposes of this Notice, "relinquished volume cap" means volume cap previously allocated to a qualified issuer to finance a qualified project for which the IRS has received written notice from a duly authorized official of the qualified issuer before the due date for Applications under to this Notice which states that the qualified issuer CREBs will not issue CREBs pursuant to the allocation and is relinquishing such allocation.

SECTION 7. EXPECTED TEMPORARY REGULATIONS; EFFECTIVE DATES; RELIANCE ON NOTICE

The Treasury Department and the IRS expect to issue temporary and proposed regulations (the "Temporary Regulations") under section 54 to provide guidance to holders and issuers of CREBs on selected issues regarding the CREBs program, including potentially, among other matters, certain definitions, general CREBs program requirements, qualified projects, use and expenditure of proceeds, remedial actions, arbitrage investment restrictions, and information reporting applicable to CREBs. The Treasury Department and the IRS expect that the Temporary Regulations will apply to CREBs sold on or after June 13, 2007 with respect to interim guidance provided in this Notice. Prior to the promulgation and effective date of the Temporary Regulations on CREBs under section 54, taxpayers may rely on the interim guidance provided in this Notice and Notice 2006-7.

SECTION 8. MAXIMUM TERM

The maximum term for a CREB is determined under section 54(e)(2) by using a discount rate equal to 110 percent of the long-term adjusted AFR, compounded semi-annually, for the month in which the bond is sold. For purposes of this Notice, a bond is "sold" on the first day on which there is a binding contract in writing for the sale or exchange of the bond. The maximum term for a CREB will be published daily by the Bureau of Public Debt on its Internet site for State and Local Government Series securities at: https://www.treasurydirect.gov.

SECTION 9. CREDIT RATE

For each issue of CREBs, a separate credit rate will apply to each of the level annual repayments of principal of the issue (each, a "principal maturity"). The credit rate for a principal maturity of an issue of CREBs is the applicable CREB credit rate for that principal maturity on the date that the issue of CREBs is sold, which applicable CREB credit rate is published for that day by the Bureau of Public Debt on its Internet site for State and Local Government Series securities at: https://www.treasurydirect.gov. The credit rates will be determined by the Treasury Department based on its estimate of the

yield on outstanding AA rated corporate bonds of a similar maturity for the business day immediately prior to the date on which the issue is sold.

SECTION 10. INFORMATION REPORTING

Section 54(l)(6) requires issuers of CREBs to submit information reporting returns to the IRS similar to those required to be submitted under section 149(e) for tax-exempt State or local governmental bonds. These information reporting returns are required to be submitted at the same time and in the same manner as those under section 149(e) on such forms as shall be prescribed by the Commissioner of the IRS for such purpose. Pending further guidance from the IRS regarding the applicable forms to be used for such information reporting for CREBs, in the case of an issue of CREBs, the issuer must submit to the IRS an information return on Form 8038, *Information Return for Tax-Exempt Private Activity Bond Issues*, at the same time and in the same manner as required under section 149(e), with modifications as described below. Issuers of CREBs should complete Part II of Form 8038 by checking the box on Line 20(c)(Other) and writing "CREBs" in the space provided for the bond description. For purposes of this Notice, the term "issue" has the meaning used for tax-exempt bond purposes in §1.150-1(c).

SECTION 11. REMEDIAL ACTIONS

The Treasury Department and the IRS expect that the Temporary Regulations will provide that, for purposes of the requirement of section 54(d)(1)(B) that qualified borrowers use at least 95 percent of the proceeds of an issue of CREBs for capital expenditures for qualified projects, a "deliberate action" taken by a qualified issuer or qualified borrower may cause such proceeds to fail to be used for such qualified use. For this purpose, the term "deliberate action" will have the same meaning as used in § 1.141-2(d)(3), except that "section 54" will be substituted for "section 141" in § 1.141-2(d)(3)(i). The Treasury Department and the IRS further expect that the Temporary Regulations will provide that a deliberate action that otherwise would cause an issue of CREBs to fail to meet the requirements of section 54(d)(1)(B) will not be treated as a deliberate action if the issuer takes a "remedial action" which meets the requirements specified in the Temporary Regulations. In addition, the Treasury Department and the IRS expect that the Temporary Regulations will contain a "redemption or defeasance" remedial action and an "alternative use of disposition proceeds" remedial action similar, but not identical to, the remedial actions contained in § 1.141-12(d) and § 1.141-12(e).

SECTION 12. ARBITRAGE REQUIREMENTS

Section 54(i) generally requires that an issue of CREBs must satisfy the arbitrage investment restrictions under section 148 applicable to tax-exempt bonds with respect to proceeds of the issue. In general, under section 148, subject to various specific prompt spending exceptions and other exceptions, the arbitrage investment restrictions, including the yield restrictions and the arbitrage rebate requirement, apply broadly to gross proceeds of tax-exempt bonds. The Treasury Department and the IRS expect that, except as otherwise provided in this section 12, the arbitrage investment restrictions under section 148 and §1.148-1 to §1.148-11, inclusive, and the exceptions to those restrictions will apply to gross proceeds of CREBs to the same extent and in the same manner as they apply to gross proceeds of tax-exempt state or local governmental bonds the interest on which is excludable from gross income under section 103.

The Treasury Department and the IRS further expect that, in applying the arbitrage investment restrictions under section 148 to CREBs, the modifications to the general rules described in paragraphs a. through e. of this section 12, below, will apply.

a. Cooperative electric companies treated like state or local governmental entities. Cooperative electric companies under section 54(j)(1) will be treated as "governmental persons" under § 1.141-1(b) for purposes of (1) applying the arbitrage investment restrictions under section 148, including the program investment definition under § 1.148-(b), and (2) determining whether CREBs are private activity bonds under section 141 in applying any particular arbitrage investment restriction that depends on whether bonds are private activity bonds,

b. 5-year temporary period exception to arbitrage yield restriction. If an issue of CREBs meets the spending requirements of section 54(h)(1), then the proceeds of the issue of CREBs will be treated as qualifying for a 5-year temporary period exception to arbitrage yield restriction under §1.148-2(e)(2) beginning on issue date of the issue.

c. CREB credit disregarded determining CREB yield for arbitrage purposes. In determining the yield on an issue of CREBs for arbitrage purposes under §1.148-4, the CREBs credit allowed under section 54(a) and the credit rate under section 54(b)(2)(A) will be disregarded.

d. Non-AMT tax-exempt bond investment exception inapplicable. In applying the arbitrage restrictions against investing gross proceeds of an issue of CREBs in higher yielding investments under section 148(a) and §1.148-2, the exception to arbitrage yield restriction for investments of gross proceeds of tax-exempt bonds in specified non-AMT

tax-exempt bond investments under section 148(b)(3) (relating to an exception to the definition of "investment property" for specified non-AMT tax-exempt bonds) and §1.148-2(d)(2)(v) (relating to a corresponding exception to arbitrage yield limitations) will be inapplicable.

e. Application of small issuer exception to the arbitrage rebate requirement. In determining whether an issue of CREBs qualifies for the $5 million small issuer exception to the arbitrage rebate requirement (increased to $10 million for certain public school facilities) under section 148(f)(4)(D) and §1.148-8, both CREBs and tax-exempt bonds the interest on which is excludable from gross income under section 103 (other than private activity bonds) that are reasonably expected to be issued or actually issued by the CREB issuer (and other applicable on-behalf-of entities and subordinate entities taken into account under that section) within a calendar year will be taken into account in measuring the applicable size limitation.

SECTION 13. MISCELLANEOUS REGULATORY GUIDANCE

The Treasury Department and the IRS expect that the Temporary Regulations will provide guidance on selected discrete issues that have arisen with respect to CREBs, including clarifying that: (1) in applying the reimbursement restrictions under section 54(d)(1)(C), the general reimbursement rules and exceptions in §1.150-2 will apply; (2) joint ownership of projects financed with CREBs will be recognized in a manner similar to the recognition of joint ownership of output projects under the private activity bond restrictions on tax-exempt bonds under section 141; (3) in determining whether all or a part of a facility will be eligible to be a qualified project for CREBs purposes, allocation and accounting rules similar to those employed under section 141 for mixed-use projects will be applied; (4) for purposes of the requirement under section 54(d) to use 95 percent of the proceeds of an issue of CREBs for qualified costs to finance capital expenditures for qualified projects, proceeds used to finance a reserve or replacement fund (e.g., a debt service reserve fund to secure the CREBs) will be treated as nonqualified costs and will be eligible for financing with CREBs only from the five percent nonqualified portion of the proceeds; and (5) except in limited circumstances involving certain refinancings to which section 54(d)(2)(B) applies and reimbursements to which section 54(d)(2)(C) applies, costs of acquiring existing facilities (as contrasted with costs of enhancements, repair, or rehabilitation of existing facilities) generally will be treated as nonqualified costs for purposes of the 95 percent use of proceeds test under section 54(d).

SECTION 14. EFFECT ON OTHER DOCUMENTS

This Notice *modifies* and *supersedes* Notice 2005-98, 2005-52 I.R.B.1211 (December 11, 2005), which provided guidance on CREBs in connection with the allocation process for the original volume cap authorization under section 54.

SECTION 15. DRAFTING INFORMATION

The principal authors of this Notice are Zoran Stojanovic and Timothy Jones of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). However, other personnel from the IRS and the Treasury Department participated in its development. For further information regarding this Notice and the Application, contact Tina Hill at (202) 283 9774 (not a toll-free call).

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APPENDIX A

APPLICATION FOR ALLOCATION OF CLEAN ENERGY RENEWABLE BOND VOLUME CAP

Internal Revenue Service

Washington, D.C.

Dear Sir or Madam:

The following constitutes the application ("Application") of (Name) (the "Applicant") for allocation of clean renewable energy bond (CREB) volume cap under Section 54(f) of the Internal Revenue Code (the "Code") (unless otherwise noted, section references herein are to the Code) to finance the project described below. (*If a single Application is used to request CREB volume cap for more than one project, then all of the required information in the Application must be provided separately for each project.)*

1. **Name of Applicant/Issuer**_____

   Street Address _____

   City_____State_____Zip_____

   Telephone Number _____ Fax Number _____

2. **Status of Issuer** – *(Select as appropriate)*

   The Applicant/Issuer is a "qualified issuer " under section 54(j)(4) because it is:

   (i) a "clean renewable energy lender" that is a cooperative owned by, or has outstanding loans to, 100 or more cooperative electrical companies and was in existence on February 1, 2002 or is an affiliate that is owned by such a lender, as demonstrated by the attached documents included as Exhibit D.

   (ii) a "cooperative electric company" that is a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), as demonstrated by the attached documents included as Exhibit D, including a copy of the

determination letter previously obtained from the IRS, if any, (or other relevant documents).

(iii) a "governmental body" that is a State, territory, possession of the United States, District of Columbia, Indian tribal government, or any political subdivision of the foregoing, as demonstrated by the attached documents included as Exhibit D. *(Supporting documents are not required to be attached for governmental bodies that are general purpose governmental entities with substantial taxing, eminent domain, **and** police powers such as generally a county, city, municipality, township, or borough.)*

3. **Name of Borrower**_____

Street Address _____

City _____ State _____ Zip _____

Telephone Number _____ Fax Number _____

4. **Status of Borrower** – *(Select as appropriate)* The Borrower is a "qualified borrower" under section 54(j)(5) because it is

(i) a qualified borrower under section 54(j)(5)(A) that is a mutual or cooperative electric company under section 501(c)(12) or section 1381(a)(2)(C) , as demonstrated by the attached documents included as Exhibit D, including a copy of the determination letter previously obtained from the IRS, if any, (or other relevant documents).

(ii) a qualified borrower under section 54(j)(5)(B) that is a "governmental body" under section 54(j)(3)(B) and is a State, territory, possession of the United States, District of Columbia, Indian tribal government, or any political subdivision of the foregoing, as demonstrated by the attached documents included as Exhibit D. *(Supporting documents are not required to be attached for governmental bodies that are general purpose governmental entities with substantial taxing, eminent domain, **and** police powers such as generally a county, city, municipality, township, or borough.)*

5. **Name of Project** .

6. **Detailed Description of Project.** A reasonably detailed description of the project (the "Project") is set forth below or in attached Exhibit A, including reasonably expected costs of components, such as land, site prep, equipment, installation, other dedicated facilities such as transmission, and capacity:

7. **Qualified Project.** The Project is a "qualified project" within the meaning of section 54(d)(2)(A) of the Code, because it is a "qualified facility" (as determined under section 45(d) of the Code without regard to section 45(d)(10) and to any placed in service date) that is a *(select as appropriate)*--

(1) a wind facility – a facility using wind to produce electricity;

(2) a closed-loop biomass facility – a facility using closed-loop biomass (as defined in section 45(c) to produce electricity or, if owned by the taxpayer prior to January 1, 2008, a facility using closed-loop biomass to produce electricity which is modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation;

(3) an open-loop biomass facilities – a facility using open-loop biomass (as defined in section 45(c) to produce electricity and in the case of a facility using agricultural livestock waste nutrients, the nameplate capacity rating of which is not less than 150 kilowatts;

(4) a geothermal or solar energy facility – a facility using geothermal energy (as defined in section 45(c) or solar energy to produce electricity (not including a facility described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48 of the Code);

(5) a small irrigation power facility – a facility using small irrigation power (as defined in section 45(c)) to produce electricity;

(6) a landfill gas facility – a facility producing electricity from gas derived from the biodegradation of municipal solid waste (as defined in section 45(c));

(7) a trash combustion facility – a facility that burns municipal solid waste (as defined in section 45(c)) to produce electricity;

(8) a refined coal production facility – a facility producing refined coal (as defined in section 45(c)); or

(9) a qualified hydropower facility – a facility engaged in qualified hydropower production (as defined in section 45).

8. **Construction Commencement Date and Placed in Service Date**. The Borrower begun or expects to begin the construction, installation and equipping of the Project on _____. The Borrower expects that the Project will be placed into service on or before _____.

9. **Independent Engineer's Certificate**: (*If the Application is for more than one Project, a separate certificate must be included for each Project.)* Attached in Exhibit B hereto is a certification by an independent, licensed engineer to the effect that the Project will be a "qualified project" within the meaning of section 54(d)(2)(A) and a "qualified facility" within the meaning of section 45(d) of the Code (without regard to section 45(d)(10) of the Code and to any placed in service date) and that the project is technically viable.

   If the project is a **qualified hydropower facility --**

   a. producing incremental hydropower production**,** then the engineering certificate also must state that the project consists only of efficiency improvements or additions to capacity that produce additional production as described in section 45(c)(8)(B) based on a methodology that would meet Federal Energy Regulatory Commission (FERC) standards; or

   b. that is a nonhydroelectric dam under section 45(c)(8)(C), then the engineering certificate also must state that the facility, when constructed, will meet FERC licensing requirements and other applicable environmental, licensing and regulatory requirements.

10. **Location of the Project:**

    Project address or physical location (do not include postal box numbers or mailing address)

    _____

    _____

    _____

City _____ State_____ Zip _____

County where Project is located _____

11. **Individual to contact** for more information about the Project:

Individual Name _____

Company Name _____

Street Address _____

City _____ State _____ Zip _____

Telephone Number _____

Fax Number _____

(Include as appropriate) The contact person is not an authorized official or officer of the Issuer and a properly executed Form 8821 is included with this Application that authorizes the disclosure by the IRS of information that relates to this Application and the Project(s) described above to the contact person.

12. **Regulatory Approvals**. Identify each regulatory body, the action that must be taken, status of any pending action and the remaining timeframe required to obtain each required approval such as a FERC approval, or siting permits. The plan of the Applicant for obtaining such approvals is as follows: *(or attach an Exhibit)*

13. **Plan of Financing**. Include a reasonably detailed description of the plan of financing for the Project, including all reasonably expected sources and uses of financing and other funds, the status of such financing, the anticipated date of bond issuance, the sources of security and repayment for the bonds, the aggregate face amount of bonds expected to be issued for the Project, and the issuer's reasonably expected schedule for spending proceeds of CREBs. Attached in Exhibit C is a plan of financing for the Project.

14. **Refinancings and Reimbursements.** *(Include the following statements, as applicable.)* [(*For refinancings, include the following statement.)* The Issuer intends to use the proceeds of CREBs to refinance qualified projects in accordance with section 54(d)(2)(B).] [(*For reimbursements, include the following statement.)* The Issuer intends to use the proceeds of CREBs to reimburse costs of a qualified project in accordance with section

54(d)(2)(C).] *(In addition, the Issuer must demonstrate that the requirements of §54(d)(2)(B) or (C), as applicable, will be met.)*

15. **Dollar Amount of Allocation Requested for the Project.** To finance the Project, the Applicant hereby requests a CREB allocation in the amount of $_____ .

16. **Prior Allocations for the Project or Related Project.** (*If the Project or any Related Project (as defined in section 3.f(iii) of this Notice) previously received an allocation of CREBs volume cap, then this paragraph must include a statement to that effect.)*

    [*If applicable, include the following statement:* On (*Insert date)*, the Project previously received a CREBs volume cap allocation in the amount of $_____. A copy of the IRS allocation letter for that allocation is attached.]

    [*If applicable, include the following statement:* On *(Insert date)*, a Related Project previously received a CREBs volume cap allocation in the amount of $_____. A copy of the IRS allocation letter for that allocation is attached.]

17. **Other allocation requests for Related Projects to the Project.** Included below are descriptions of other projects that are Related Projects (as defined in paragraph 16 above) to the Project for which the applicant or other entities are applying for a CREB volume cap allocation. With respect to an applicant on a Related Project other than the Applicant, set forth below are the names, addresses, contact persons, and telephone numbers for any such applicant.

18. **Pooled Financing Bonds. (***If the issuer expects to use the requested allocation of CREB volume cap as part of a pooled financing bond within the meaning of section 54(l)(2, then the issuer should include the undertaking noted below.)*

    [The Applicant Issuer expects to use the requested allocation for CREBs volume cap in a pooled financing bond within the meaning of section 54(i)(2), and the Issuer expressly agrees that it will obtain a written loan commitment for all borrowers from the issue of CREBs to which the requested allocation relates before the issue date of that issue.]

I hereby certify that I am an authorized officer or official of the Applicant and am duly authorized to execute legal documents on behalf of the Applicant in connection with incurring debt and that I am duly authorized to execute legal documents on behalf of the Application in making this Application. Under penalties of perjury, I declare that (i) I have knowledge of the

relevant facts and circumstances relating to this Application and the Project(s), (ii) I have examined this Application, and (iii) to the best of my knowledge and belief, all of the facts contained in this Application are true, correct and complete.

By: _____

Name and Title: _____

Date: _____

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EXHIBIT A

DESCRIPTION OF THE PROJECT
(RESPONSE TO QUESTION 4 OF THE APPLICATION)

(Attached hereto)

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EXHIBIT B
ENGINEER'S CERTIFICATE
(RESPONSE TO QUESTION 9 OF THE APPLICATION)

(Attached hereto in substantially the form below)

Dated: _____, 2007

This certificate is being provided to the Internal Revenue Service ("IRS") in connection with an application (the "Application") by [*Name of Applicant Issuer:* _____] (the "Issuer") to the IRS requesting an allocation of volume cap authority to issue clean renewable energy bonds ("CREBs") under section 54 of the Internal Revenue Code, as amended (the "Code") . The CREBs are being issued to make a loan to [*Name of qualified borrower:* _____ (the "Borrower"), to finance the costs of certain clean renewable energy facilities described more particularly in the Application (the "Project"). The undersigned hereby certifies as follows:

1. I am an independent, licensed engineer, duly qualified to practice the profession of engineering under the laws of the State of _____, and I am not an officer or employee of the Issuer or the Borrower.

2. I have reviewed the Application for a CREBs volume cap allocation (including the exhibits thereto) of the Issuer of even date herewith describing the Project. To the best of my knowledge, information, and belief, the Project will meet the requirements to be a "qualified project" under section 54(d)(2)(A) of the Code and correspondingly a "qualified facility" under section 45(d) of the Code, determined without regard to section 45(d)(10) of the Code and without regard to any placed in service date).

[*(Include as appropriate)* To the best of my knowledge, information, and belief, the Project is a qualified hydropower facility under section 45(d)(9)--

a. producing incremental hydropower production consisting only of efficiency improvements or additions to capacity that produce additional production as described in section 45(c)(8)(B) based on a methodology that would meet Federal Energy Regulatory Commission (FERC) standards. *or*

b. that is a nonhydroelectric dam under section 45(c)(8)(C) and the facility, when constructed, will meet FERC licensing requirements and other applicable environmental, licensing and regulatory requirements.]

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3. To the best of my knowledge, information and belief, the Project is technically viable and when constructed will produce electricity.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on the date of this Engineer's Certificate.

By:_____

Seal and/or License number:

Name and Title: _____

_____

Company: _____

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EXHIBIT C

PLAN OF FINANCING
(RESPONSE TO QUESTION 13 OF THE APPLICATION)

(Attached hereto)

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EXHIBIT D

DOCUMENTS REGARDING ISSUER OR BORROWER ORGANIZATIONAL STATUS (RESPONSE TO QUESTION 2 OR 4 OF THE APPLICATION, AS APPLICABLE)

(Attached hereto)

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APPENDIX B

**CONSENT TO PUBLIC DISCLOSURE
OF CERTAIN CLEAN RENEWABLE ENERGY BOND
APPLICATION INFORMATION**

In the event that the Application of [(*Insert name of applicant here):* _____] (the Applicant) for an allocation of authority to issue clean renewable energy bonds ("CREBs") under section 54 of the Internal Revenue Code is approved, the undersigned authorized representative of the Applicant hereby consents to the disclosure by the Internal Revenue Service through publication of a Notice in the Internal Revenue Bulletin or a press release of the name of applicant (issuer), the name of the borrower (if other than the issuer), the type and location of the project that is the subject of the Application, and the amount of the allocation, if any, of volume cap authority to issue CREBs for such project. The undersigned understands that this information might be published, broadcast, discussed or otherwise disseminated in the public record.

This authorization shall become effective upon the execution thereof. Except to the extent disclosure is authorized herein, the returns and return information of the undersigned taxpayer are confidential and are protected by law under the Internal Revenue Code.

I certify that I have the authority to execute this consent to disclose on behalf of the taxpayer named below.

Date: _____ Signature: _____

Print name: _____

Title: _____

Name of Applicant-Taxpayer: _____

Taxpayer Identification Number: _____

Taxpayer's Address: _____
_____
_____

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Note: Treasury Regulations require that the Internal Revenue Service must receive this consent within 60 days after it is signed and dated.

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Notice 2006-7

Notice 2006-7

2006-10 I.R.B. 559

Section 54 -- Clean Renewable Energy Bonds

SECTION 1. PURPOSE

This Notice provides guidance with respect to facilities that may be financed with the proceeds of clean renewable energy bonds under § 54(a) of the Internal Revenue Code (the Code). In addition, this Notice provides guidance with respect to the entities that may own facilities financed with the proceeds of clean renewable energy bonds and the entities that may issue clean renewable energy bonds. This Notice supplements Notice 2005-98, 2005-52 I.R.B. 1211, which was published on December 27, 2005.

SECTION 2. BACKGROUND

Section 1303 of the Energy Tax Incentives Act of 2005, Pub. L. No. 109-58, added § 54 to the Code. In general, § 54 authorizes up to $800,000,000 of tax credit bonds to be issued by qualified issuers to finance certain renewable energy projects described in § 45(d) of the Code.

Section 54(a) provides that a taxpayer that holds a "clean renewable energy bond" on one or more credit allowance dates of the bond occurring during any taxable year is allowed as a nonrefundable credit against Federal income tax for the taxable year an amount equal to the sum of the credits determined under § 54(b) with respect to such dates. Section 54(d) provides that a "clean renewable energy bond" means any bond issued as part of an issue if: (1) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to the issuer of a portion of the national clean renewable energy bond limitation under § 54(f)(2); (2) 95 percent or more of the proceeds of the issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects; (3) the qualified issuer designates the bond for purposes of § 54 and the bond is in registered form; and (4) the issue meets certain requirements described in § 54(h) with respect to the expenditure of bond proceeds.

Section 54(j)(4) defines a "qualified issuer" as: (1) a clean renewable energy bond lender (as defined in § 54(j)(2)); (2) a cooperative electric company (as defined in §

54(j)(1)); or (3) a governmental body. Section 54(j)(3) defines the term "governmental body" as any State, territory, possession of the United States, the District of Columbia, Indian tribal government, or any political subdivision thereof. Section 54(j)(5) provides that a "qualified borrower" is: (1) a mutual or cooperative electric company described in § 501(c)(12) or § 1381(a)(2)(C); or (2) a governmental body. Section 54(d)(2)(A) defines the term "qualified project" as any of the qualified facilities described in §§ 45(d)(1) through (d)(9) (determined without regard to any placed in service date) owned by a qualified borrower.

Notice 2005-98 solicits applications for allocations of the $800,000,000 clean renewable energy bond limitation and provides guidance on certain other matters under § 54.

SECTION 3. TEMPORARY REGULATIONS

The Treasury Department and the Internal Revenue Service intend to issue temporary and proposed regulations (the "Temporary Regulations") under § 54 to provide guidance to holders and issuers of clean renewable energy bonds. It is anticipated that the Temporary Regulations will provide, in part, as follows:

1. For purposes of § 54, the term "qualified project" includes any facility owned by a qualified borrower that is functionally related and subordinate (as determined under § 1.103-8(a)(3) of the Income Tax Regulations) to any qualified facility described in §§ 45(d)(1) through (d)(9) (determined without regard to any placed in service date) and owned by such borrower.

2. For purposes of § 54, the term "political subdivision" will have the same meaning as in § 1.103-1.

3. A clean renewable energy bond may be issued on behalf of a State or political subdivision within the meaning of § 1.103-1(b) under rules similar to those for determining whether a bond issued on behalf of a State or political subdivision, constitutes an obligation of that State or political subdivision for purposes of § 103.

4. For purposes of § 54, the term "qualified borrower" includes an instrumentality of a State or political subdivision (as determined for purposes of § 103).

SECTION 4. DRAFTING INFORMATION

The principal authors of this Notice are Timothy L. Jones and Aviva M. Roth of the Office of Associate Chief Counsel (Tax Exempt & Government Entities). However, other personnel from the IRS and the Treasury Department participated in its development.

HUNTON& WILLIAMS

For further information regarding this Notice contact Timothy L. Jones or Aviva M. Roth at (202) 622-3980 (not a toll-free call).

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IRC Sections 54, 54A-E and 45(d)

Section 54 Credit to holders of clean renewable energy bonds

(a) Allowance of credit

If a taxpayer holds a clean renewable energy bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

(b) Amount of credit

(1) In general

The amount of the credit determined under this subsection with respect to any credit allowance date for a clean renewable energy bond is 25 percent of the annual credit determined with respect to such bond.

(2) Annual credit

The annual credit determined with respect to any clean renewable energy bond is the product of--

(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

(B) the outstanding face amount of the bond.

(3) Determination

For purposes of paragraph (2), with respect to any clean renewable energy bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of clean renewable energy bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer.

(4) Credit allowance date

For purposes of this section, the term "credit allowance date" means--

(A) March 15,

(B) June 15,

(C) September 15, and

(D) December 15.

Such term also includes the last day on which the bond is outstanding.

(5) Special rule for issuance and redemption

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

(c) Limitation based on amount of tax

The credit allowed under subsection (a) for any taxable year shall not exceed the excess of--

(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(2) the sum of the credits allowable under this part (other than subpart C, section 1400N(l), and this section).

(d) Clean renewable energy bond

For purposes of this section--

(1) In General

The term "clean renewable energy bond" means any bond issued as part of an issue if--

(A) the bond is issued by a qualified issuer pursuant to an allocation by the Secretary to such issuer of a portion of the national clean renewable energy bond limitation under subsection (f)(2),

(B) 95 percent or more of the proceeds of such issue are to be used for capital expenditures incurred by qualified borrowers for one or more qualified projects,

(C) the qualified issuer designates such bond for purposes of this section and the bond is in registered form, and

(D) the issue meets the requirements of subsection (h).

(2) Qualified project; special use rules

(A) In general

The term "qualified project" means any qualified facility (as determined under section 45(d) without regard to paragraph (10) and to any placed in service date) owned by a qualified borrower.

(B) Refinancing rules

For purposes of paragraph (1)(B), a qualified project may be refinanced with proceeds of a clean renewable energy bond only if the indebtedness being refinanced (including any obligation directly or indirectly refinanced by such indebtedness) was originally incurred by a qualified borrower after the date of the enactment of this section.

(C) Reimbursement

For purposes of paragraph (1)(B), a clean renewable energy bond may be issued to reimburse a qualified borrower for amounts paid after the date of the enactment of this section with respect to a qualified project, but only if--

(i) prior to the payment of the original expenditure, the qualified borrower declared its intent to reimburse such expenditure with the proceeds of a clean renewable energy bond,

(ii) not later than 60 days after payment of the original expenditure, the qualified issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

(D) Treatment of changes in use

For purposes of paragraph (1)(B), the proceeds of an issue shall not be treated as used for a qualified project to the extent that a qualified borrower or qualified issuer takes any action within its control which causes such proceeds not to be used for a qualified project. The Secretary shall prescribe regulations specifying remedial actions that may be taken (including conditions to taking such remedial actions) to prevent an action described in the preceding sentence from causing a bond to fail to be a clean renewable energy bond.

(e) Maturity limitations

(1) Duration of term

A bond shall not be treated as a clean renewable energy bond if the maturity of such bond exceeds the maximum term determined by the Secretary under paragraph (2) with respect to such bond.

(2) Maximum term

During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined without regard to the requirements of subsection (l)(6) and using as a discount rate the average annual interest rate of tax-exempt obligations having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

(f) Limitation on amount of bonds designated

(1) National limitation

There is a national clean renewable energy bond limitation of $1,200,000,000.

(2) Allocation by Secretary

The Secretary shall allocate the amount described in paragraph (1) among qualified projects in such manner as the Secretary determines appropriate, except that the Secretary may not allocate more than $750,000,000 of the national clean renewable energy bond limitation to finance qualified projects of qualified borrowers which are governmental bodies.

(g) Credit included in gross income

Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

(h) Special rules relating to expenditures

(1) In general

An issue shall be treated as meeting the requirements of this subsection if, as of the date of issuance, the qualified issuer reasonably expects--

(A) at least 95 percent of the proceeds of such issue are to be spent for one or more qualified projects within the 5-year period beginning on the date of issuance of the clean energy bond,

(B) a binding commitment with a third party to spend at least 10 percent of the proceeds of such issue will be incurred within the 6-month period beginning on the date of issuance of the clean energy bond or, in the case of a clean energy bond the proceeds of which are to be loaned to two or more qualified borrowers, such binding commitment will be incurred within the 6-month period beginning on the date of the loan of such proceeds to a qualified borrower, and

(C) such projects will be completed with due diligence and the proceeds of such issue will be spent with due diligence.

(2) Extension of period

Upon submission of a request prior to the expiration of the period described in paragraph (1)(A), the Secretary may extend such period if the qualified issuer establishes that the failure to satisfy the 5-year requirement is due to reasonable cause and the related projects will continue to proceed with due diligence.

(3) Failure to spend required amount of bond proceeds within 5 years

To the extent that less than 95 percent of the proceeds of such issue are expended by the close of the 5-year period beginning on the date of issuance (or if an extension has been obtained under paragraph (2), by the close of the extended period), the qualified issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

(i) Special rules relating to arbitrage

A bond which is part of an issue shall not be treated as a clean renewable energy bond unless, with respect to the issue of which the bond is a part, the qualified issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue.

(j) Cooperative electric company; qualified energy tax credit bond lender; governmental body; qualified borrower

For purposes of this section--

(1) Cooperative electric company

The term "cooperative electric company" means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C), or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

(2) Clean renewable energy bond lender

The term "clean renewable energy bond lender" means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

(3) Governmental body

The term "governmental body" means any State, territory, possession of the United States, the District of Columbia, Indian tribal government, and any political subdivision thereof.

(4) Qualified issuer

The term "qualified issuer" means--

(A) a clean renewable energy bond lender,

(B) a cooperative electric company, or

(C) a governmental body.

(5) Qualified borrower

The term "qualified borrower" means--

(A) a mutual or cooperative electric company described in section 501(c)(12) or 1381(a)(2)(C), or

(B) a governmental body.

(k) Special rules relating to pool bonds

No portion of a pooled financing bond may be allocable to any loan unless the borrower has entered into a written loan commitment for such portion prior to the issue date of such issue.

(l) Other definitions and special rules

For purposes of this section--

(1) Bond

The term “bond" includes any obligation.

(2) Pooled financing bond

The term "pooled financing bond" shall have the meaning given such term by section 149(f)(6)(A).

(3) Partnership; S Corporation; and other pass-thru entities

(A) In general

Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under subsection (a).

(B) No basis adjustment

In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

(4) Bonds held by regulated investment companies

If any clean renewable energy bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

(5) Ratable principal amortization required

A bond shall not be treated as a clean renewable energy bond unless it is part of an issue which provides for an equal amount of principal to be paid by the qualified issuer during each calendar year that the issue is outstanding.

(6) Reporting

Issuers of clean renewable energy bonds shall submit reports similar to the reports required under section 149(e).

(m) Termination

This section shall not apply with respect to any bond issued after December 31, 2009.

HUNTON& WILLIAMS

Sec. 54A Credit to holders of qualified tax credit bonds

(a) Allowance of credit

If a taxpayer holds a qualified tax credit bond on one or more credit allowance dates of the bond during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

(b) Amount of credit

(1) In general

The amount of the credit determined under this subsection with respect to any credit allowance date for a qualified tax credit bond is 25 percent of the annual credit determined with respect to such bond.

(2) Annual credit

The annual credit determined with respect to any qualified tax credit bond is the product of--

(A) the applicable credit rate, multiplied by

(B) the outstanding face amount of the bond.

(3) Applicable credit rate

For purposes of paragraph (2), the applicable credit rate is the rate which the Secretary estimates will permit the issuance of qualified tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the qualified issuer. The applicable credit rate with respect to any qualified tax credit bond shall be determined as of the first day on which there is a binding, written contract for the sale or exchange of the bond.

(4) Special rule for issuance and redemption

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

(c) Limitation based on amount of tax

(1) In general

The credit allowed under subsection (a) for any taxable year shall not exceed the excess of--

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under this part (other than subpart C and this subpart).

(2) Carryover of unused credit

If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year (determined before the application of paragraph (1) for such succeeding taxable year).

(d) Qualified tax credit bond

For purposes of this section--

(1) Qualified tax credit bond[i]

The term "qualified tax credit bond"[ii] means--

(A) a qualified forestry conservation bond,

(B) a new clean renewable energy bond,

(C) a qualified energy conservation bond, or

(D) a qualified zone academy bond,

which is part of an issue that meets requirements of paragraphs (2), (3), (4), (5), and (6).

(2) Special rules relating to expenditures

(A) In general

An issue shall be treated as meeting the requirements of this paragraph if, as of the date of issuance, the issuer reasonably expects--

(i) 100 percent or more of the available project proceeds to be spent for 1 or more qualified purposes within the 3-year period beginning on such date of issuance, and

(ii) a binding commitment with a third party to spend at least 10 percent of such available project proceeds will be incurred within the 6-month period beginning on such date of issuance.

(B) Failure to spend required amount of bond proceeds within 3 years

(i) In general

To the extent that less than 100 percent of the available project proceeds of the issue are expended by the close of the expenditure period for 1 or more qualified purposes, the issuer shall redeem all of the nonqualified bonds within 90 days after the end of such period. For purposes of this paragraph, the amount of the nonqualified bonds required to be redeemed shall be determined in the same manner as under section 142.

(ii) Expenditure period

For purposes of this subpart, the term "expenditure period" means, with respect to any issue, the 3-year period beginning on the date of issuance. Such term shall include any extension of such period under clause (iii).

(iii) Extension of period

Upon submission of a request prior to the expiration of the expenditure period (determined without regard to any extension under this clause), the Secretary may extend such period if the issuer establishes that the failure to expend the proceeds within the original expenditure period is due to reasonable cause and the expenditures for qualified purposes will continue to proceed with due diligence.

(C) Qualified purpose[iii]

For purposes of this paragraph, the term "qualified purpose"[iv] means--

(i) in the case of a qualified forestry conservation bond, a purpose specified in section 54B(e),

(ii) in the case of a new clean renewable energy bond, a purpose specified in section 54C(a)(1),

(iii) in the case of a qualified energy conservation bond, a purpose specified in section 54D(a)(1), and

(iv) in the case of a qualified zone academy bond, a purpose specified in section 54E(a)(1).

(D) Reimbursement

For purposes of this subtitle, available project proceeds of an issue shall be treated as spent for a qualified purpose if such proceeds are used to reimburse the issuer for amounts paid for a qualified purpose after the date that the Secretary makes an allocation of bond limitation with respect to such issue, but only if--

(i) prior to the payment of the original expenditure, the issuer declared its intent to reimburse such expenditure with the proceeds of a qualified tax credit bond,

(ii) not later than 60 days after payment of the original expenditure, the issuer adopts an official intent to reimburse the original expenditure with such proceeds, and

(iii) the reimbursement is made not later than 18 months after the date the original expenditure is paid.

(3) Reporting

An issue shall be treated as meeting the requirements of this paragraph if the issuer of qualified tax credit bonds submits reports similar to the reports required under section 149(e).

(4) Special rules relating to arbitrage

(A) In general

An issue shall be treated as meeting the requirements of this paragraph if the issuer satisfies the requirements of section 148 with respect to the proceeds of the issue.

(B) Special rule for investments during expenditure period

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any investment of available project proceeds during the expenditure period.

(C) Special rule for reserve funds

An issue shall not be treated as failing to meet the requirements of subparagraph (A) by reason of any fund which is expected to be used to repay such issue if--

(i) such fund is funded at a rate not more rapid than equal annual installments,

(ii) such fund is funded in a manner reasonably expected to result in an amount not greater than an amount necessary to repay the issue, and

(iii) the yield on such fund is not greater than the discount rate determined under paragraph (5)(B) with respect to the issue.

(5) Maturity limitation

(A) In general

An issue shall be treated as meeting the requirements of this paragraph if the maturity of any bond which is part of such issue does not exceed the maximum term determined by the Secretary under subparagraph (B).

(B) Maximum term

During each calendar month, the Secretary shall determine the maximum term permitted under this paragraph for bonds issued during the following calendar month. Such maximum term shall be the term which the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of such bond. Such present value shall be determined using as a discount rate the average annual interest rate of tax-exempt obligations

having a term of 10 years or more which are issued during the month. If the term as so determined is not a multiple of a whole year, such term shall be rounded to the next highest whole year.

(6) Prohibition on financial conflicts of interest

An issue shall be treated as meeting the requirements of this paragraph if the issuer certifies that--

(A) applicable State and local law requirements governing conflicts of interest are satisfied with respect to such issue, and

(B) if the Secretary prescribes additional conflicts of interest rules governing the appropriate Members of Congress, Federal, State, and local officials, and their spouses, such additional rules are satisfied with respect to such issue.

(e) Other definitions

For purposes of this subchapter--

(1) Credit allowance date

The term "credit allowance date" means--

(A) March 15,

(B) June 15,

(C) September 15, and

(D) December 15.

Such term includes the last day on which the bond is outstanding.

(2) Bond

The term "bond" includes any obligation.

(3) State

The term "State" includes the District of Columbia and any possession of the United States.

(4) Available project proceeds

The term "available project proceeds" means--

(A) the excess of--

(i) the proceeds from the sale of an issue, over

(ii) the issuance costs financed by the issue (to the extent that such costs do not exceed 2 percent of such proceeds), and

(B) the proceeds from any investment of the excess described in subparagraph (A).

(f) Credit treated as interest

For purposes of this subtitle, the credit determined under subsection (a) shall be treated as interest which is includible in gross income.

(g) S corporations and partnerships

In the case of a tax credit bond held by an S corporation or partnership, the allocation of the credit allowed by this section to the shareholders of such corporation or partners of such partnership shall be treated as a distribution.

(h) Bonds held by regulated investment companies and Real Estate Investment Trusts

If any qualified tax credit bond is held by a regulated investment company or a real estate investment trust, the credit determined under subsection (a) shall be allowed to shareholders of such company or beneficiaries of such trust (and any gross income included under subsection (f) with respect to such credit shall be treated as distributed to such shareholders or beneficiaries) under procedures prescribed by the Secretary.

(i) Credits may be stripped

Under regulations prescribed by the Secretary--

(1) In general

There may be a separation (including at issuance) of the ownership of a qualified tax credit bond and the entitlement to the credit under this section with respect to such bond. In case of any such separation, the credit under this section shall be allowed to the person who on the credit allowance date holds the instrument evidencing the entitlement to the credit and not to the holder of the bond.

(2) Certain rules to apply

In the case of a separation described in paragraph (1), the rules of section 1286 shall apply to the qualified tax credit bond as if it were a stripped bond and to the credit under this section as if it were a stripped coupon.

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[i] Code section 54A(d)(1), as excerpted below (and in the form prior to the amendments under the 2008 Energy Improvement and Extension Act (P.L. 110-343) (the "Energy Act")), applies to obligations issued before Oct. 4, 2008.

"(1) Qualified tax credit bond

The term "qualified tax credit bond" means a qualified forestry conservation bond which is part of an issue that meets the requirements of paragraphs (2), (3), (4), (5), and (6)."

[ii] Code section 54A(d)(1), in its current form, as amended by sections 107, 301, and 313 of the Energy Act, applies to obligations issued after Oct. 3, 2008.

[iii] Code section 54A(d)(2)(C), as excerpted below (and in the form prior to the amendments under the Energy Act), applies to obligations issued before Oct. 4, 2008.

(C) Qualified purpose

For purposes of this paragraph, the term "qualified purpose" means a purpose specified in section 54B(e).

[iv] Code section 54A(d)(2)(C), in its current form, as amended by sections 107, 301, and 313 of the Energy Act, applies to obligations issued after Oct. 3, 2008.

HUNTON& WILLIAMS

Sec. 54B Qualified forestry conservation bonds

(a) Qualified forestry conservation bond

For purposes of this subchapter, the term "qualified forestry conservation bond" means any bond issued as part of an issue if--

(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified forestry conservation purposes,

(2) the bond is issued by a qualified issuer, and

(3) the issuer designates such bond for purposes of this section.

(b) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (d).

(c) National limitation on amount of bonds designated

There is a national qualified forestry conservation bond limitation of $500,000,000.

(d) Allocations

(1) In general

The Secretary shall make allocations of the amount of the national qualified forestry conservation bond limitation described in subsection (c) among qualified forestry conservation purposes in such manner as the Secretary determines appropriate so as to ensure that all of such limitation is allocated before the date which is 24 months after the date of the enactment of this section.

(2) Solicitation of applications

The Secretary shall solicit applications for allocations of the national qualified forestry conservation bond limitation described in subsection (c) not later than 90 days after the date of the enactment of this section.

(e) Qualified forestry conservation purpose

For purposes of this section, the term "qualified forestry conservation purpose" means the acquisition by a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)) from an unrelated person of forest and forest land that meets the following qualifications:

(1) Some portion of the land acquired must be adjacent to United States Forest Service Land.

(2) At least half of the land acquired must be transferred to the United States Forest Service at no net cost to the United States and not more than half of the land acquired may either remain with or be conveyed to a State.

(3) All of the land must be subject to a native fish habitat conservation plan approved by the United States Fish and Wildlife Service.

(4) The amount of acreage acquired must be at least 40,000 acres.

(f) Qualified issuer

For purposes of this section, the term "qualified issuer" means a State or any political subdivision or instrumentality thereof or a 501(c)(3) organization (as defined in section 150(a)(4)).

(g) Special arbitrage rule

In the case of any qualified forestry conservation bond issued as part of an issue, section 54A(d)(4)(C) shall be applied to such issue without regard to clause (i).

(h) Election to treat 50 percent of bond allocation as payment of tax

(1) In general

If--

(A) a qualified issuer receives an allocation of any portion of the national qualified forestry conservation bond limitation described in subsection (c), and

(B) the qualified issuer elects the application of this subsection with respect to such allocation,

then the qualified issuer (without regard to whether the issuer is subject to tax under this chapter) shall be treated as having made a payment against the tax imposed by this chapter, for the taxable year preceding the taxable year in which the allocation is received, in an amount equal to 50 percent of the amount of such allocation.

(2) Treatment of deemed payment

(A) In general

Notwithstanding any other provision of this title, the Secretary shall not use the payment of tax described in paragraph (1) as an offset or credit against any tax liability of the qualified issuer but shall refund such payment to such issuer.

(B) No interest

Except as provided in paragraph (3)(A), the payment described in paragraph (1) shall not be taken into account in determining any amount of interest under this title.

(3) Requirement for, and effect of, election

(A) Requirement

No election under this subsection shall take effect unless the qualified issuer certifies to the Secretary that any payment of tax refunded to the issuer under this subsection will be used exclusively for 1 or more qualified forestry conservation purposes. If the qualified issuer fails to use any portion of such payment for such purpose, the issuer shall be liable to the United States in an amount equal to such portion, plus interest at the overpayment rate under section 6621 for the period from the date such portion was refunded to the date such amount is paid. Any such amount shall be assessed and collected in the same manner as tax imposed by this chapter, except that subchapter B of chapter 63 (relating to deficiency procedures) shall not apply in respect of such assessment or collection.

(B) Effect of election on allocation

If a qualified issuer makes the election under this subsection with respect to any allocation--

(i) the issuer may issue no bonds pursuant to the allocation, and

(ii) the Secretary may not reallocate such allocation for any other purpose.

HUNTON& WILLIAMS

Sec. 54C New clean renewable energy bonds

(a) New clean renewable energy bond

For purposes of this subpart, the term "new clean renewable energy bond" means any bond issued as part of an issue if--

(1) 100 percent of the available project proceeds of such issue are to be used for capital expenditures incurred by governmental bodies, public power providers, or cooperative electric companies for one or more qualified renewable energy facilities,

(2) the bond is issued by a qualified issuer, and

(3) the issuer designates such bond for purposes of this section.

(b) Reduced credit amount

The annual credit determined under section 54A(b) with respect to any new clean renewable energy bond shall be 70 percent of the amount so determined without regard to this subsection.

(c) Limitation on amount of bonds designated

(1) In general

The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated under this subsection to such issuer.

(2) National limitation on amount of bonds designated

There is a national new clean renewable energy bond limitation of $800,000,000 which shall be allocated by the Secretary as provided in paragraph

(3), except that--

(A) not more than 33 1/3 percent thereof may be allocated to qualified projects of public power providers,

(B) not more than 33 1/3 percent thereof may be allocated to qualified projects of governmental bodies, and

(C) not more than 33 1/3 percent thereof may be allocated to qualified projects of cooperative electric companies.

(3) Method of allocation

(A) Allocation among public power providers

After the Secretary determines the qualified projects of public power providers which are appropriate for receiving an allocation of the national new clean renewable energy bond limitation, the Secretary shall, to the maximum extent practicable, make allocations among such projects in such manner that the amount allocated to each such project bears the same ratio to the cost of such project as the limitation under paragraph (2)(A) bears to the cost of all such projects.

(B) Allocation among governmental bodies and cooperative electric companies

The Secretary shall make allocations of the amount of the national new clean renewable energy bond limitation described in paragraphs (2)(B) and (2)(C) among qualified projects of governmental bodies and cooperative electric companies, respectively, in such manner as the Secretary determines appropriate.

(d) Definitions

For purposes of this section--

(1) Qualified renewable energy facility

The term "qualified renewable energy facility" means a qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and to any placed in service date) owned by a public power provider, a governmental body, or a cooperative electric company.

(2) Public power provider

The term "public power provider" means a State utility with a service obligation, as such terms are defined in section 217 of the Federal Power Act (as in effect on the date of the enactment of this paragraph).

(3) Governmental body

The term "governmental body" means any State or Indian tribal government, or any political subdivision thereof.

(4) Cooperative electric company

The term "cooperative electric company" means a mutual or cooperative electric company described in section 501(c)(12) or section 1381(a)(2)(C).

(5) Clean renewable energy bond lender

The term "clean renewable energy bond lender" means a lender which is a cooperative which is owned by, or has outstanding loans to, 100 or more cooperative electric companies and is in existence on February 1, 2002, and shall include any affiliated entity which is controlled by such lender.

(6) Qualified issuer

The term "qualified issuer" means a public power provider, a cooperative electric company, a governmental body, a clean renewable energy bond lender, or a not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.

HUNTON& WILLIAMS

Sec. 54D Qualified energy conservation bonds

(a) Qualified energy conservation bond

For purposes of this subchapter, the term "qualified energy conservation bond" means any bond issued as part of an issue if--

(1) 100 percent of the available project proceeds of such issue are to be used for one or more qualified conservation purposes,

(2) the bond is issued by a State or local government, and

(3) the issuer designates such bond for purposes of this section.

(b) Reduced credit amount

The annual credit determined under section 54A(b) with respect to any qualified energy conservation bond shall be 70 percent of the amount so determined without regard to this subsection.

(c) Limitation on amount of bonds designated

The maximum aggregate face amount of bonds which may be designated under subsection (a) by any issuer shall not exceed the limitation amount allocated to such issuer under subsection (e).

(d) National limitation on amount of bonds designated

There is a national qualified energy conservation bond limitation of $800,000,000.

(e) Allocations

(1) In general

The limitation applicable under subsection (d) shall be allocated by the Secretary among the States in proportion to the population of the States.

(2) Allocations to largest local governments-

(A) In general

In the case of any State in which there is a large local government, each such local government shall be allocated a portion of such State's allocation which bears the same ratio to the State's allocation (determined without regard to this subparagraph) as the population of such large local government bears to the population of such State.

(B) Allocation of unused limitation to State

The amount allocated under this subsection to a large local government may be reallocated by such local government to the State in which such local government is located.

(C) Large local government

For purposes of this section, the term "large local government" means any municipality or county if such municipality or county has a population of 100,000 or more.

(3) Allocation to issuers; restriction on private activity bonds

Any allocation under this subsection to a State or large local government shall be allocated by such State or large local government to issuers within the State in a manner that results in not less than 70 percent of the allocation to such State or large local government being used to designate bonds which are not private activity bonds.

(f) Qualified conservation purpose

For purposes of this section--

(1) In general

The term "qualified conservation purpose" means any of the following:

(A) Capital expenditures incurred for purposes of--

(i) reducing energy consumption in publicly-owned buildings by at least 20 percent,

(ii) implementing green community programs,

(iii) rural development involving the production of electricity from renewable energy resources, or

(iv) any qualified facility (as determined under section 45(d) without regard to paragraphs (8) and (10) thereof and without regard to any placed in service date).

(B) Expenditures with respect to research facilities, and research grants, to support research in--

(i) development of cellulosic ethanol or other non-fossil fuels,

(ii) technologies for the capture and sequestration of carbon dioxide produced through the use of fossil fuels,

(iii) increasing the efficiency of existing technologies for producing non-fossil fuels,

(iv) automobile battery technologies and other technologies to reduce fossil fuel consumption in transportation, or

(v) technologies to reduce energy use in buildings.

(C) Mass commuting facilities and related facilities that reduce the consumption of energy, including expenditures to reduce pollution from vehicles used for mass commuting.

(D) Demonstration projects designed to promote the commercialization of-

(i) green building technology,

(ii) conversion of agricultural waste for use in the production of fuel or otherwise,

(iii) advanced battery manufacturing technologies,

(iv) technologies to reduce peak use of electricity, or

(v) technologies for the capture and sequestration of carbon dioxide emitted from combusting fossil fuels in order to produce electricity.

(E) Public education campaigns to promote energy efficiency.

(2) Special rules for private activity bonds

For purposes of this section, in the case of any private activity bond, the term "qualified conservation purposes" shall not include any expenditure which is not a capital expenditure.

(g) Population

(1) In general

The population of any State or local government shall be determined for purposes of this section as provided in section 146(j) for the calendar year which includes the date of the enactment of this section.

(2) Special rule for counties

In determining the population of any county for purposes of this section, any population of such county which is taken into account in determining the population of any municipality which is a large local government shall not be taken into account in determining the population of such county.

(h) Application to Indian tribal governments

An Indian tribal government shall be treated for purposes of this section in the same manner as a large local government, except that--

(1) an Indian tribal government shall be treated for purposes of subsection (e) as located within a State to the extent of so much of the population of such government as resides within such State, and

(2) any bond issued by an Indian tribal government shall be treated as a qualified energy conservation bond only if issued as part of an issue the available project proceeds of which are used for purposes for which such Indian tribal government could issue bonds to which section 103(a) applies.

HUNTON& WILLIAMS

Sec. 54E Qualified zone academy bonds

(a) Qualified zone academy bonds

For purposes of this subchapter, the term "qualified zone academy bond" means any bond issued as part of an issue if--

(1) 100 percent of the available project proceeds of such issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency,

(2) the bond is issued by a State or local government within the jurisdiction of which such academy is located, and

(3) the issuer--

(A) designates such bond for purposes of this section,

(B) certifies that it has written assurances that the private business contribution requirement of subsection (b) will be met with respect to such academy, and

(C) certifies that it has the written approval of the eligible local education agency for such bond issuance.

(b) Private business contribution requirement

For purposes of subsection (a), the private business contribution requirement of this subsection is met with respect to any issue if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions having a present value (as of the date of issuance of the issue) of not less than 10 percent of the proceeds of the issue.

(c) Limitation on amount of bonds designated

(1) National limitation

There is a national zone academy bond limitation for each calendar year. Such limitation is $400,000,000 for 2008 and 2009, and, except as provided in paragraph (4), zero thereafter.

(2) Allocation of limitation

The national zone academy bond limitation for a calendar year shall be allocated by the Secretary among the States on the basis of their respective populations of individuals below the poverty line (as defined by the Office of Management and Budget). The limitation amount allocated to a State under the preceding sentence shall be allocated by the State education agency to qualified zone academies within such State.

(3) Designation subject to limitation amount

The maximum aggregate face amount of bonds issued during any calendar year which may be designated under subsection (a) with respect to any qualified zone academy shall not exceed the limitation amount allocated to such academy under paragraph (2) for such calendar year.

(4) Carryover of unused limitation

(A) In general

If for any calendar year--

(i) the limitation amount for any State, exceeds

(ii) the amount of bonds issued during such year which are designated under subsection (a) with respect to qualified zone academies within such State,

the limitation amount for such State for the following calendar year shall be increased by the amount of such excess.

(B) Limitation on carryover

Any carry-forward of a limitation amount may be carried only to the first 2 years following the unused limitation year. For purposes of the preceding sentence, a limitation amount shall be treated as used on a first-in first-out basis.

(C) Coordination with section 1397E

Any carryover determined under section 1397E(e)(4) (relating to carryover of unused limitation) with respect to any State to calendar year 2008 or 2009 shall be treated for purposes of this section as a carryover with respect to such State for such calendar year under subparagraph (A), and the limitation of subparagraph (B) shall apply to such carryover taking into account the calendar years to which such carryover relates.

(d) Definitions

For purposes of this section--

(1) Qualified zone academy

The term "qualified zone academy" means any public school (or academic program within a public school) which is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if--

(A) such public school or program (as the case may be) is designed in cooperation with business to enhance the academic curriculum, increase graduation and employment rates, and better prepare students for the rigors of college and the increasingly complex workforce,

(B) students in such public school or program (as the case may be) will be subject to the same academic standards and assessments as other students educated by the eligible local education agency,

(C) the comprehensive education plan of such public school or program is approved by the eligible local education agency, and

(D)(i) such public school is located in an empowerment zone or enterprise community (including any such zone or community designated after the date of the enactment of this section), or

(ii) there is a reasonable expectation (as of the date of issuance of the bonds) that at least 35 percent of the students attending such school or participating in such program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the National School Lunch Act.

(2) Eligible local education agency

For purposes of this section, the term "eligible local education agency" means any local educational agency as defined in section 9101 of the Elementary and Secondary Education Act of 1965.

(3) Qualified purpose

The term "qualified purpose" means, with respect to any qualified zone academy--

(A) rehabilitating or repairing the public school facility in which the academy is established,

(B) providing equipment for use at such academy,

(C) developing course materials for education to be provided at such academy, and

(D) training teachers and other school personnel in such academy.

(4) Qualified contributions

The term "qualified contribution" means any contribution (of a type and quality acceptable to the eligible local education agency) of--

(A) equipment for use in the qualified zone academy (including state-of-the-art technology and vocational equipment),

(B) technical assistance in developing curriculum or in training teachers in order to promote appropriate market driven technology in the classroom,

(C) services of employees as volunteer mentors,

(D) internships, field trips, or other educational opportunities outside the academy for students, or

(E) any other property or service specified by the eligible local education agency.

HUNTON& WILLIAMS

Section 45(d)

Qualified facilities

For purposes of this section--

(1) Wind facility

In the case of a facility using wind to produce electricity, the term "qualified facility" means any facility owned by the taxpayer which is originally placed in service after December 31, 1993, and before January 1, 2010. Such term shall not include any facility with respect to which any qualified small wind energy property expenditure (as defined in subsection (d)(4) of section 25D) is taken into account in determining the credit under such section.

(2) Closed-loop biomass facility

(A) In general

In the case of a facility using closed-loop biomass to produce electricity, the term "qualified facility" means any facility--

(i) owned by the taxpayer which is originally placed in service after December 31, 1992, and before January 1, 2011, or

(ii) owned by the taxpayer which before January 1, 2011, is originally placed in service and modified to use closed-loop biomass to co-fire with coal, with other biomass, or with both, but only if the modification is approved under the Biomass Power for Rural Development Programs or is part of a pilot project of the Commodity Credit Corporation as described in 65 Fed. Reg. 63052.

(B) Expansion of facility[v]

Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A)(i), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.

(C) Special rules

In the case of a qualified facility described in subparagraph (A)(ii)--

(i) the 10-year period referred to in subsection (a) shall be treated as beginning no earlier than the date of the enactment of this clause, and

(ii) if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

(3) Open-loop biomass facilities

(A) In general

In the case of a facility using open-loop biomass to produce electricity, the term "qualified facility" means any facility owned by the taxpayer which--

(i) in the case of a facility using agricultural livestock waste nutrients--

(I) is originally placed in service after the date of the enactment of this subclause and before January 1, 2011, and

(II) the nameplate capacity rating of which is not less than 150 kilowatts, and

(ii) in the case of any other facility, is originally placed in service before January 1, 2011.

(B) Expansion of facility[vi]

Such term shall include a new unit placed in service after the date of the enactment of this subparagraph in connection with a facility described in subparagraph (A), but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.

(C) Credit eligibility

In the case of any facility described in subparagraph (A), if the owner of such facility is not the producer of the electricity, the person eligible for the credit allowable under subsection (a) shall be the lessee or the operator of such facility.

(4) Geothermal or solar energy facility

In the case of a facility using geothermal or solar energy to produce electricity, the term "qualified facility" means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2011 (January 1, 2006, in the case of a facility using solar energy). Such term shall not include any property described in section 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under section 48.

(5) Small irrigation power facility

In the case of a facility using small irrigation power to produce electricity, the term "qualified facility" means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before the date of the enactment of paragraph (11).

(6) Landfill gas facilities

In the case of a facility producing electricity from gas derived from the biodegradation of municipal solid waste, the term "qualified facility" means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2011.

(7) Trash facilities[vii]

In the case of a facility which burns municipal solid waste to produce electricity, the term "qualified facility" means any facility owned by the taxpayer which is originally placed in service after the date of the enactment of this paragraph and before January 1, 2011. Such term shall include a new unit placed in service in connection with a facility placed in service on or before the date of the enactment of this paragraph, but only to the extent of the increased amount of electricity produced at the facility by reason of such new unit.

(8) Refined coal production facility[viii]

In the case of a facility that produces refined coal, the term "refined coal production facility" means--

(A) with respect to a facility producing steel industry fuel, any facility (or any modification to a facility) which is placed in service before January 1, 2010, and

(B) with respect to any other facility producing refined coal, any facility placed in service after the date of the enactment of the American Jobs Creation Act of 2004 and before January 1, 2010.

(9) Qualified hydropower facility

In the case of a facility producing qualified hydroelectric production described in subsection (c)(8), the term "qualified facility" means--

(A) in the case of any facility producing incremental hydropower production, such facility but only to the extent of its incremental hydropower production attributable to efficiency improvements or additions to capacity described in subsection (c)(8)(B) placed in service after the date of the enactment of this paragraph and before January 1, 2011, and

(B) any other facility placed in service after the date of the enactment of this paragraph and before January 1, 2011.

(C) Credit period.-- In the case of a qualified facility described in subparagraph (A), the 10-year period referred to in subsection (a) shall be treated as beginning on the date the efficiency improvements or additions to capacity are placed in service.

(10) Indian coal production facility

In the case of a facility that produces Indian coal, the term "Indian coal production facility" means a facility which is placed in service before January 1, 2009.

(11) Marine and hydrokinetic renewable energy facilities[ix]

In the case of a facility producing electricity from marine and hydrokinetic renewable energy, the term "qualified facility" means any facility owned by the taxpayer-

(A) which has a nameplate capacity rating of at least 150 kilowatts, and

(B) which is originally placed in service on or after the date of the enactment of this paragraph and before January 1, 2012.

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[v] Code section 45(d)(2)(B), as added by the Energy Act, applies to property placed in service after Oct. 3, 2008.

[vi] Code section 45(d)(3)(B), as added by the Energy Act, applies to property placed in service after Oct. 3, 2008. Former subpar. (B) redesignated (C).

[vii] Code section 45(d)(7), as amended by the Energy Act, strikes "facility which burns" and inserts "facility (other than a facility described in paragraph (6)) which uses" for electricity produced and sold after Oct. 3, 2008.

[viii] Code section 45(d)(8), as amended by the Energy Act, applies to fuel produced and sold after September 30, 2008. Code section 45(d)(8) (as excerpted below and as in the form prior to the amendment) applies to fuel produced and sold before October 1, 2008.

> (8) Refined coal production facility
> "In the case of a facility that produces refined coal, the term "refined coal production facility" means a facility which is placed in service after the date of the enactment of this paragraph and before January 1, 2009.

[ix] Code section 45(d)(11), as added by the Energy Act, applies to electricity produced and sold after Oct. 3, 2008.

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Exhibit D - Sample Reimbursement Resolution

RESOLUTION OF OFFICIAL INTENT TO REIMBURSE EXPENDITURES WITH PROCEEDS OF A BORROWING

WHEREAS, the _____ (the "Borrower"), intends to acquire, construct and equip a clean renewable energy project (the "Project") that constitutes a qualified project as defined in Section 54(d)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of a clean renewable energy bond as defined in Section 54(d)(1) of the Code ("CREB");

BE IT RESOLVED BY THE [GOVERNING BODY/BOARD OF DIRECTORS OR TRUSTEES/COUNCIL] OF THE BORROWER:

1. The Borrower intends to utilize the proceeds of CREBs or to incur other debt, in an amount not currently expected to exceed $_____, to pay the costs of the Project.

2. The Borrower intends that the proceeds of the CREBs be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the CREBs or other debt.

3. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the CREBs to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid.

4. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Code.

5. This resolution shall take effect immediately upon its passage.

Adopted _____ __, 200_

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Laura Ellen Jones

Practice focuses on federal income tax law with an emphasis on energy-related tax credits and other tax incentives.

Relevant Experience

- Represented numerous clients in transactions involving section 29 tax credits for the production of nonconventional fuels, including the purchase and sale of synthetic fuel, coke and coke gas, and landfill gas facilities, and the structuring of commercial arrangements for the relocation and operation of the facilities.
- Obtained numerous private letter rulings on various synthetic fuel transactions.
- Represented numerous clients in connection with audits of section 29 tax credit facilities.
- Represented clients in transactions involving section 45 tax credits for the production of electricity from renewable resources, including the purchase and sale of wind, open-loop biomass, landfill gas, geothermal and refined coal facilities, and the structuring of commercial arrangements for the operation of the facilities.
- Represented clients in transactions involving section 48 tax credits for solar projects.
- Represented applicants for and issuers and purchasers of Clean Renewable Energy Bonds.
- Represented clients in connection with section 48A and 48B tax credit allocation applications for IGCC and other gasification projects.
- Represented clients in federal legislative matters and Congressional investigations regarding section 29 tax credits and other energy tax incentives.

Background

- Tax Specialist, Ernst & Young, National Tax Department/ International Tax Services, Washington, D.C., 1997
- Tax Legislative Assistant, Davis Polk & Wardwell, Washington, D.C., 1994-96

Membership

- Member, Virginia State Bar
- Member, American Bar Association, Tax Section

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Speeches

- Speaker, "Landfill Gas Provisions in the Stabilization Act," 12th Annual Landfill Methane Outreach Program Conference and Project Expo, January 2009
- Speaker, "Solar Power Purchase Agreements - Commercial and Tax Risks," Utility Scale Solar Finance & Investment Summit, November 2008
- Speaker, Hunton & Williams LLP Tax Credit Bonds Teleconference, October 2008
- Speaker, Hunton & Williams LLP Energy Tax Credit Update Teleconference, October 2008
- Speaker, "Tax Proposals to Increase Investment in Solar Projects," Solar Energy Industries Association (SEIA) Solar Summit, October 2008
- Speaker, "Section 48 Investment Tax Credits for Solar Projects - Avoiding the Top Thirteen Tax Mistakes," Solar Power Project Development & Finance Tutorial, July 2008
- Speaker, Solar Energy Industries Association (SEIA) Teleconference on "Solar PPA Model and Utility Regulation", July 2008
- Speaker, "Renewable Energy Tax Credits," Edison Electric Institute (EEI), Taxation Committee Meeting, June 2008
- Speaker, "Status of Federal Energy Policy Legislation," 11th Annual Landfill Methane Outreach Program Conference and Project Expo, January 2008
- Speaker, "Primer on Energy Credits," 53rd William & Mary Tax Conference, November 2007
- Speaker, "Section 48 Investment Tax Credits for Solar Projects - Avoiding the Top Ten Tax Mistakes," Solar Project Development & Finance Tutorial, November 2007
- Speaker, "Production Tax Credit Basics," Novogradac & Company LLP Financing Renewable Energy Conference, November 2007
- Speaker, "Renewable Energy Tax Credits - A Historical Perspective, and Washington Report - Current Legislative Update," Novogradac & Company LLP Financing Renewable Energy Conference, May 2007
- Speaker, Hunton & Williams LLP Clean Renewable Energy Bonds Teleconference, April 2007
- Speaker, "The Latest on Clean Renewable Energy Bonds and Tax Credits," 10th Annual Landfill Methane Outreach Program Conference and Project Expo, January 2007

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- Speaker, "Everything You Always Wanted to Know About Renewable Energy Tax Credits," Renewable Energy Project Finance, November 2006
- Speaker, "Tax Incentives for Coal Liquefaction and Gasification Projects," 29th Annual Platts Coal Marketing Days, September 2006
- Moderator, "Understanding EPAct 2005/Tax/Finance Advantages to Reduce Costs of Gasification Implementation," 2nd Annual Platts IGCC Symposium, May 2006
- Speaker, "The Energy Policy Act of 2005 - What's in it for Landfill Gas?," 9th Annual Landfill Methane Outreach Program Conference and Project Expo, January 2006

Publications

- Co-author, Finally - More Renewable Energy Tax Credit Provisions, *Energy Law360*, 10/08/08
- Co-author, IRS Guidance for Flip Structures in Wind Deals, *Energy Law 360*, 10/24/07
- Co-author, "Recent Developments Applicable to the Energy and Natural Resources Tax Area," *The Texas Tax Lawyer*, May 2006

Awards and Professional Recognition

- Voted Among "The Legal Elite," Virginia's Top Lawyers in Taxes/Estates/Trusts, *Virginia Business*, 2004, 2005 & 2006
- Voted Among "Virginia Rising Stars," *Richmond*, 2007 & 2008

Education

- J.D., Georgetown University Law Center, 1998
- B.A., University of Virginia, Foreign Affairs, 1991

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Practice focuses on federal securities and tax laws applicable to municipal bonds. Substantial experience in SEC compliance and enforcement matters and IRS examination and audit matters. Representation as bond, underwriter's, special disclosure and special tax counsel on governmental bonds and private activity bonds. IRS private letter ruling requests and federal legislation. Counsel for municipal bond matters before the IRS and SEC.

Relevant Experience

- Counsel for all municipal bond financings, including multifamily, single-family, 501(c)(3), airport, and higher education issues.
- Tax representation for issuers and underwriters in "targeted" IRS audits.
- Representation of issuer clients in IRS examinations/program audits.
- Representation of municipal finance counsel on IRS audit and SEC compliance/enforcement matters.
- Representation of clients on tax audit disclosure matters.

Membership

- Member, Iowa State Bar
- Member, Minnesota State Bar
- Member, Washington State Bar
- Member, District of Columbia Bar
- Member, Past President, National Association of Bond Lawyers ("NABL")
- Director and Founding Fellow, American College of Bond Counsel
- Board of Directors, Dartmouth Partners in Community Service, a Program of Dartmouth College

Speeches

- Speaker, Tax Audit and Enforcement Topics, Seattle Northwest Securities Corporation, 2004 Spring Conference
- Speaker, Tax Considerations in Financing Religious-affiliated Education Facilities, National Association of Higher Education Facilities Authorities Annual Conference, April 2003
- Speaker, SEC 2nd Annual Municipal Marketplace Roundtable, October 2002

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- Panelist and Moderator, NABL Bond Attorneys' Workshops, 1986-2006
- Speaker, Tax Audit Disclosure, NABL Tax and Securities Law Institute, 2003-2004

Publications

- Editorial Advisor, *Municipal Finance Journal*, Civic Research Institute
- NABL/ABA Disclosure Rules of Counsel In State and Local Government Securities Offerings, Second Edition
- Editorial Board, LexisNexis - National Association of Bond Lawyers, Federal Securities Laws of Municipal Bonds Deskbook, 2003, 2005

Pro Bono Work

- Low Income Housing Tax Credits

Education

- J.D., University of Iowa College of Law, with distinction, Articles Editor, *Iowa Law Review*, 1981
- A.B., Dartmouth College, *magna cum laude*, 1977