

## Part III - Administrative, Procedural, and Miscellaneous

### New Clean Renewable Energy Bonds

Notice 2015-12

#### **SECTION 1. PURPOSE**

This Notice solicits applications for allocations of the remaining available amount of the national limitation (volume cap) for new clean renewable energy bonds (“New CREBs”) under § 54C(a) of the Internal Revenue Code (“Code”). The available amounts include forfeited amounts previously allocated under Notice 2009-33, 2009-1 C.B. 865 (April 27, 2009), and Announcement 2010-54, 2010-2 C.B. 386 (September 20, 2010). This Notice also provides related guidance on the following: (1) application requirements and forms for requests for volume cap allocations; and (2) the method that the Department of the Treasury and the Internal Revenue Service (IRS) will use to allocate the remaining volume cap.

#### **SECTION 2. BACKGROUND**

Section 107(a) of the Energy Improvement and Extension Act of 2008, Division B of Pub. L. No. 110-343, 122 Stat. 3765 (2008) (“2008 Act”), added § 54C to the Code to provide for a volume cap of \$800 million for New CREBs to finance qualified renewable energy facilities. Section 1111 of Title I of Division B of the American Recovery and

Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) (“2009 Act”), amended § 54C to increase the volume cap for New CREBs by \$1.6 billion to a total of \$2.4 billion.

Section 54C(a) provides that a “new clean renewable energy bond” or New CREB 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 qualified owners, including 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 § 54C.

Section 54C(c)(2) provides that the Secretary shall allocate not more than one third of the volume cap to qualified projects to be owned by public power providers, governmental bodies, and cooperative electric companies, respectively. Section 54C(c)(3)(A) provides that with respect to public power providers, after the Secretary identifies the qualified projects of public power providers that are appropriate for receiving an allocation of the New CREBs volume cap, 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 portion of the New CREBs volume cap that may be allocated to public power providers bears to the cost of all such projects. Section 54C(c)(3)(B) provides that with respect to governmental bodies and cooperative electric companies, the Secretary shall make allocations of the respective New CREBs volume cap among

qualified projects of governmental bodies and cooperative electric companies in such manner as the Secretary determines appropriate.

In Notice 2009-33, the Treasury Department and the IRS solicited applications for allocations of New CREBs volume cap and set forth administrative procedures for the initial allocations of the \$2.4 billion volume cap. In October 2009 and January 2010, the IRS allocated the entire volume cap designated for projects to be owned by governmental bodies and public power providers. At that time, \$609,204,555 of the available \$800 million in volume cap designated for projects to be owned by cooperative electric companies was allocated. In Announcement 2010-54, the IRS solicited applications for the remaining \$190,795,445 in volume cap available for allocation to qualified projects to be owned by cooperative electric companies, referring to the application and allocation process and the guidance in Notice 2009-33. In March 2011, the IRS awarded the remaining volume cap under that Announcement.

Section 9(j) of Notice 2009-33 provides that allocations under that Notice must be used or relinquished no later than three years after the date of the letter issuing the allocation. Similarly, unused allocations made under Announcement 2010-54 revert back to the IRS no later than three years after the date of the letter issuing the allocation. Thus, any unused allocations under Notice 2009-33 and Announcement 2010-54 expired and reverted back to the IRS by no later than March 4, 2014.

Section 9(j) of Notice 2009-33 provides that the IRS plans to announce a process to reallocate any unallocated volume cap and any allocated volume cap that has been relinquished and has reverted to the IRS. Additionally, the Notice provides that, consistent with allocation requirements under § 54C(c)(2), any relinquished or reverted

volume cap will be reallocated only for a qualified project owned or to be owned by the same category of qualified owner as the owner that originally received the relinquished or reverted allocation.

Public power providers have reported to the IRS the issuance of New CREBs in the amount of \$283,434,308.65; governmental bodies have reported to the IRS the issuance of New CREBs in the amount of \$202,865,036.40; and cooperative electric companies have reported to the IRS the issuance of New CREBs in the amount of \$519,221,531. Based on these reports, the passage of the deadlines described above for issuing New CREBs, and other information provided to the IRS, the IRS has identified \$516,565,691.35 of volume cap available for reallocation for projects to be owned by public power providers, \$597,134,963.60 of volume cap available for reallocation for projects to be owned by governmental bodies, and \$280,778,469 of volume cap available for reallocation for projects to be owned by cooperative electric companies.

### **SECTION 3. SCOPE AND GENERAL APPLICATION REQUIREMENTS**

.01 Scope. This Notice solicits applications for volume cap allocations for projects to be owned by governmental bodies, cooperative electric companies, and public power providers. Allocations that the IRS makes under this Notice for projects to be owned by governmental bodies and cooperative electric companies and that the issuer forfeits or that otherwise revert to the IRS will be available for reallocation under this Notice. Allocations under this Notice for projects to be owned by public power providers and that the issuer forfeits or that otherwise revert to the IRS are expected to be reallocated as part of an allocation process to be announced by the IRS in future

administrative guidance that generally follows the process set forth in this Notice, subject to such changes or modifications that are announced by the IRS in such future administrative guidance. For a similar supplemental announcement regarding reallocations of volume cap, see Announcement 2010-54, 2010-2 C.B. 386 (September 20, 2010).

.02 Application Requirements. Each application for an allocation of the New CREBs volume cap under § 54C submitted pursuant to this Notice (Application) must be prepared and submitted in accordance with this section 3.02. By submitting an Application, the applicant agrees to comply with the requirements of this Notice. For an Application to comply with this Notice, among other things, the Application must be prepared in substantially the same format as the form (including exhibits thereto) attached to this Notice as Appendix A. This Notice, including Appendix A, may be found electronically under the link “TEB Published Guidance” on the IRS web site at <http://www.irs.gov/Tax-Exempt-Bonds>.

a. Qualified issuer. The Application must be submitted by a qualified issuer (Applicant) within the meaning of § 54C(d)(6). For this purpose, a “qualified issuer” includes a “public power provider,” a “cooperative electric company,” a “governmental body,” a “clean renewable energy bond lender,” and a “not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act.” For further information on these definitions, see Section 2 of the Application included in Appendix A to this Notice. The Application must identify the Applicant, including the Applicant’s Federal tax identification number, and include a certification that the Applicant is a qualified issuer within the meaning of § 54C(d)(6).

b. Signatures. The Application must be signed and dated by an authorized official of the Applicant. For purposes of the Application, the term “authorized official of the Applicant” means an officer, board member, employee, or other official of the Applicant who is duly authorized to execute legal documents on behalf of the Applicant in connection with incurring debt of the Applicant (for example, a mayor, chairperson of a city council, chairperson of a board of directors, county or city administrator or manager, chief executive officer, or chief financial officer) similar to the kind of duly authorized official 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) of the Income Tax Regulations.

c. Contact person. The Application must designate one or more persons with knowledge of the project that the Applicant duly authorizes 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 Applicant, the Application must include an executed Form 8821 (Taxpayer Information Authorization) or Form 2848 (Power of Attorney and Declaration of Representative) authorizing the disclosure of taxpayer information specifically relating to the Application to the designee.

d. Address for submissions. The Application must be submitted by hard copy accompanied by a copy of the Application in PDF format on a CD and sent (by U.S. Postal Service or designated private delivery services) to the Internal Revenue Service (IRS), SE:T:GE:TEB:CPM, Attention: Kenneth Stengel, 1122 Town & Country Commons, Chesterfield, MO 63017.

e. Project description. The Application must contain the information required by this section 3.02.e. Applicants receiving an allocation of volume cap may use proceeds of the New CREBS (proposed bonds) only to finance the costs of the project (as defined in section 3.02.e.(i) of this Notice) described in the Application and related eligible expenditures (as permitted under §§ 54A and 54C)) with certain permitted deviations (as provided in section 7 of this Notice).

(i) Qualified project. The Application must describe in reasonable detail the qualified renewable energy facility or facilities constituting the project to be financed with the proceeds of the New CREBs. The Application must include a certification that each facility in the project will constitute a “qualified renewable energy facility” under § 54C(d)(1). The Application must indicate the expected date that the acquisition or construction of each facility in the project will commence and the expected date that each facility in the project will be placed in service. Property owned by a qualified owner that is functionally related and subordinate (as determined under §1.103-8(a)(3)) to any qualified renewable energy facility described in § 54C(d)(1) may be financed as part of the facility.

(ii) Certification of engineer. The Application must contain a certification by an independent, licensed engineer that each facility in the project will meet the requirements for a “qualified facility” under the applicable provisions of § 45(d) (but without regard to § 45(d)(8) and (10) and without regard to any placed in service date), and that each facility, upon being placed in service, is reasonably expected to produce electricity.

(iii) Qualified owner--(A) In general. Each Application must identify the expected owner of the project and include a certification with respect to the project stating whether the entity that will own the project is a public power provider, governmental body, or cooperative electric company. For purposes of this Notice, the term “qualified owner” means a public power provider, a governmental body, or a cooperative electric company within the meaning of § 54C(d)(2), (3), and (4), respectively. For purposes of this Notice, a “qualified owner” includes any entities that are members of the same controlled group (within the meaning of § 1.150-1(e)) as the qualified owner. Joint ownership of qualified renewable energy facilities financed with New 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 § 141. Applications for volume cap for projects to be owned by governmental bodies or cooperative electric companies must include a certification that the expected qualified owner of the project is not a public power provider under § 54C(d)(2).

(B) Entities eligible under multiple owner categories. Except as otherwise provided in section 3.02.e.(iii)(C) of this Notice, if the expected qualified owner of the project is described in more than one category of qualified owners under § 54C(d)(2), (3) or (4), the Application must identify only one such category for which it is seeking volume cap for the project.

(C) Public power providers ineligible for volume cap designated for governmental bodies or cooperative electric companies. An entity that is a “public power provider” under § 54C(d)(2) is ineligible to receive volume cap designated for projects to be owned by governmental bodies or cooperative electric companies.



(iv) Project cost. The Application must describe the reasonably expected costs of the project. The Applicant must certify that none of the reasonably expected costs of the project to be financed with New CREBs issued pursuant to the allocation were included in a previous application or, if the costs were included in a previous application, that (1) the IRS has been notified that such application has been withdrawn, or (2) that any previous allocation for those costs reverted to the IRS.

(v) Location of project. The Application must identify the location of the project.

(vi) Approvals. The Application must state that all required Federal, State, and local approvals (regulatory and otherwise) for the project, the proposed bonds, and any other required financing for the project have been obtained or, if any approvals have not yet been obtained, the Application must include a certification that the Applicant reasonably expects to receive all required approvals in time to permit issuance of the proposed bonds before the expiration of the volume cap allocation set forth in section 5.e. of this Notice. The Application must identify any required approvals that have not been obtained and must describe the Applicant's plan and expected time frame for obtaining such approvals.

f. Plan of financing. The Application must contain a reasonably detailed description of the plan of financing for the project, including (1) the amount of New CREBs expected to be issued together with a description of how proceeds of such bonds will be allocated to the project, (2) any other reasonably expected sources of financing for the project together with a description of how such financing will be allocated to the project, and (3) documentation from an independent third party who is knowledgeable about the marketability of municipal bonds evidencing that the proposed

bonds are reasonably expected to be marketed prior to the expiration of the volume cap allocation set forth in section 5.e. of this Notice. Documentation that may be used to meet requirement (3) under this section 3.02.f. includes the following: a bond purchase commitment letter from an investor; a credit enhancement commitment letter from a financial institution; a letter from an underwriter or financial advisor to the effect that the sale of the proposed bonds is likely to be completed in time to permit issuance of the proposed bonds before the expiration of the volume cap allocation for the proposed bonds; documentation similar to the foregoing documentation; or a combination of the foregoing documentation. If the owner expects to use the proceeds of New CREBs to reimburse amounts that the owner paid with respect to a qualified project, the Application must include a certification that the requirements under § 54A(d)(2)(D) will be met before any such reimbursement is made.

g. Compliance with Federal tax laws. The Application must include a certification that the Applicant reasonably expects that the proposed bonds will meet the applicable requirements of §§ 54A and 54C and that the Applicant has engaged bond counsel to render an opinion to the effect that the proposed bonds will meet those requirements.

h. Dollar amount of allocation requested. The Application must specify the dollar amount of the volume cap requested, not to exceed the amount of the proposed bonds.

i. Demonstration of readiness to issue. The Application must include a certification that the Applicant reasonably expects to issue the proposed bonds prior to the expiration of the volume cap allocation described in section 5.e. of this Notice.

j. Certain forfeitures of volume cap. The IRS may take into account whether volume cap previously allocated to the Applicant under this Notice was forfeited or

expired. The Application must include either (1) a certification that no previous forfeitures or expirations of volume cap occurred with respect to volume cap allocated under this Notice or (2) identify any allocation of volume cap previously received by the Applicant under this Notice and, if such allocation, or any part thereof, was forfeited or expired, provide an explanation of the reasons for such forfeiture or expiration.

k. Required declaration in application. The Application and all subsequent submissions made in connection with the Application must include the following declaration signed and dated by an authorized official of the Applicant (described in section 3.02.b. of this Notice):

I hereby certify that I am an authorized officer or official of the Applicant, that I 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 Applicant 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) described herein, and (ii) I have examined this Application and the supporting documents, including any supplemental submission, and to the best of my knowledge and belief, all of the facts contained in this Application, any supplemental submission, and the supporting documents are true, correct, and complete.

#### **SECTION 4. SUBMISSION DATES AND DUE DATES; INCOMPLETE**

##### **APPLICATIONS**

a. Submission date and incomplete Applications. Each Application will be treated as submitted on the later of the day the IRS receives the Application, or if the IRS requests any additional information or supporting documents, the day the additional information and supporting documents are received by the IRS (submission date). To be treated as submitted, the Application, additional information, and supporting documents must satisfy all of the applicable requirements of this Notice, including

without limitation, those described in section 3 of this Notice. The IRS may request additional information to support any of the requirements of this Notice, including additional information and certifications to demonstrate that the proposed project will qualify for New CREBs financing under § 54C and to demonstrate the Applicant's readiness to issue the proposed bonds. Except as otherwise stated in this Notice, an Application will not satisfy the requirements of this Notice until the IRS receives information satisfying all of the applicable requirements of this Notice, including any requested additional information.

b. Due date for Applications for volume cap designated for public power providers. Applicants for projects to be owned by public power providers must submit complete Applications for an allocation of volume cap under this Notice on or before June 3, 2015. Applications with a submission date after this due date will not be processed.

c. Timing for Applications for volume cap designated for governmental bodies and cooperative electric companies. Applicants for projects to be owned by governmental bodies and cooperative electric companies may submit Applications for an allocation of volume cap under this Notice beginning March 5, 2015. Applications submitted before that date will be treated as being submitted on that date.

## **SECTION 5. GENERAL ALLOCATION PROCESS AND METHODOLOGY**

a. Allocation methods. New CREBs volume cap under § 54C will be allocated in accordance with this section 5.

(i) Allocation methodology for public power providers. Up to one-third of the total volume cap will be allocated to qualified projects owned by public power providers using

the pro-rata allocation method. Except as otherwise provided in this section 5, the IRS will allocate an amount of New CREBs volume cap for projects to be owned by public power providers in an amount equal to the amount requested in the Application. If the aggregate amount of volume cap requested for all qualified projects to be owned by public power providers exceeds the actual amount of volume cap available for allocation to such projects, the amount of volume cap allocated to a project for a public power provider will bear the same proportion to the available volume cap allocated to public power providers as the amount of volume cap requested for that project bears to the total amount of volume cap requested for all projects to be owned by public power providers.

(ii) Allocation methodology for governmental bodies and cooperative electric companies. Up to one-third of the total volume cap will be allocated to qualified projects owned by governmental bodies and up to an additional one-third of the total volume cap will be allocated to qualified projects owned by cooperative electric companies. Except as otherwise provided in this section 5, the IRS will allocate an amount of New CREBs volume cap for projects to be owned by governmental bodies and cooperative electric companies in an amount equal to the amount requested in the Application on a first-come, first-served basis by order of submission date (as defined in section 4.a. of this Notice).

b. Limit on allocation to any one Applicant for projects to be owned by governmental bodies or cooperative electric companies. No qualified owner (including any entities that are members of the same controlled group within the meaning of § 1.150-1(e)) that is a governmental body or cooperative electric company will receive

an aggregate allocation of volume cap under this Notice to exceed the published Volume Cap Limit (taking into account all allocations under this Notice that have not reverted to the IRS) in effect for the period that includes the submission date. The published Volume Cap Limit for any period is the greater of: (1) 20 percent of the amount of available volume cap for projects to be owned by governmental bodies or cooperative electric companies, as applicable, as of the first day of such period (determined based on information available to the IRS, including allocation data and reports of bonds issued); or (2) \$40 million. The IRS will update the Volume Cap Limit and the available amounts approximately every sixty days until the applicable volume cap is fully allocated. The IRS plans to publish these updates on the IRS website at <http://www.irs.gov/Tax-Exempt-Bonds> or at such other location as the IRS may provide in future administrative guidance. An Application will be treated as complete only if the amount of volume cap requested is within the applicable Volume Cap Limit and the Application otherwise meets the requirements of this Notice.

c. Insufficient available volume cap. The rules set forth in this section 5.c. apply if an Applicant requests volume cap in an amount that is within the published Volume Cap Limit under section 5.b. above but that exceeds the amount of volume cap that is then available for allocation on the submission date (based on application activity since the most recent publication of the Volume Cap Limit and information then available to the IRS).

(i) Governmental bodies and cooperative electric companies. If an Application for volume cap for a project to be owned by a governmental body or cooperative electric company requests more volume cap than is available on the Application submission

date for such category of qualified owner, then the Applicant will have the opportunity to receive an allocation of volume cap up to the available volume cap. Further, if two or more Applications for the same category of qualified owner have the same submission date and allocation of the requested amounts would cause the available volume cap to be exceeded, then each such Applicant will have the opportunity to receive a portion of the available volume cap in the proportion that each amount requested has to the sum of the amounts requested. In any circumstance in which available volume cap is in an amount less than the amount requested, the IRS will notify the Applicant and the Applicant will have 30 days from the date the IRS contacts the Applicant to notify the IRS (at the address specified in section 3.02.d. of this Notice) of its decision to either (1) immediately accept the allocation in the lesser amount, or (2) delay the allocation for up to 90 days from the submission date to determine if additional volume cap might become available. If the Applicant decides to accept an allocation in a lesser amount, the Applicant will notify the IRS by submitting a notice to the IRS in substantially the same form as attached to this Notice as Appendix C. If the Applicant decides to delay receiving its allocation, the Applicant will notify the IRS by submitting notice in substantially the same form as attached to this Notice as Appendix D. If the Applicant decides to delay receiving its allocation and the full amount requested does not become available before the end of the period designated by the Applicant, after such period the IRS will notify the Applicant of the amount it can allocate to the Applicant. The Applicant will have 30 days from the date the IRS notifies the Applicant of such available amount to accept the lesser amount by submitting a notice to the IRS in substantially the same

form as attached to this Notice as Appendix C. If the Applicant decides not to accept the lesser amount, the Application will be treated as withdrawn.

(ii) Public power providers. If the aggregate amount of volume cap requested for all qualified projects to be owned by public power providers exceeds the actual amount of volume cap available for allocation to such projects, each Applicant will be notified by the IRS of the amount of the pro-rata allocation it would receive pursuant to section 5.a. of this Notice and given 30 days to notify the IRS (at the address specified in section 3.02.d. of this Notice) whether it will accept or decline the reduced amount. If the Applicant decides not to accept the lesser amount, the Application will be treated as withdrawn. See section 5.f. of this Notice for information on effect of withdrawals.

(iii) Supplemental certifications and information for partial allocations. If the Applicant accepts an amount that is less than the amount requested in the Application, the Applicant must provide along with its decision (1) a certification in substantially the same format as the form attached to this Notice as Appendix C (A) confirming its decision to accept the allocation in the lesser amount, and (B) either (I) certifying, based on the lesser amount accepted, that the information included in the Application pursuant to section 3.02.e. of this Notice is accurate (subject to provisions of section 7.a. of this Notice relating to insubstantial deviations), or (II) submitting revised information required under section 3.02.e. of this Notice based on the lesser amount accepted and certifying that such revised information meets the requirements of this Notice, and (2) a revised plan of financing as described in section 3.02.f. of this Notice based on the lesser amount. The IRS may require the Applicant to supplement the Application to



demonstrate that the requirements of this Notice are met based on the reduced allocation.

(iv) Effect of supplemental certifications on submission date. For purposes of section 4 of this Notice, the submission date for an Application for which insufficient volume cap exists will not change if the Applicant submits within 30 days of the notification from the IRS any supplemental information required under this section 5.c.

(v) Failure to notify IRS of decision. If the Applicant does not notify the IRS of its decision within the applicable time frames specified in sections 5.c.(i) and (ii) of this Notice, the Application will be treated as withdrawn.

d. Confirmation of allocation. The IRS will send Applicants letters confirming allocations of volume cap (allocation letter). An allocation of New CREB volume cap by the IRS under this Notice is not a determination that any bonds issued pursuant to the allocation are new clean renewable energy bonds under § 54C. The Service may upon examination determine that the applicable requirements of the Code, including §§ 54A, 54C, or 6431, and any applicable administrative or regulatory guidance, such as this Notice, are not met with respect to any bond issued pursuant to the volume cap allocation.

e. Expiration of allocation. Applicants have 180 days from the date of the allocation letter to issue the proposed bonds. Allocations with respect to any portion of the proposed bonds not issued during that time will be treated as forfeited and revert to the IRS and will be available for reallocation. The IRS does not expect to grant extensions to this expiration date.

f. Effect of forfeitures and withdrawals. A governmental body or a cooperative electric company that has withdrawn or is deemed to have withdrawn its Application, or that received an allocation that expired or was forfeited, may file a new Application for volume cap that meets all the requirements of this Notice, including the information described in section 3.02.j. of this Notice, and that Application will be subject to the submission provisions of section 4 and the applicable limits set forth in section 5 of this Notice in effect on the submission date of the new Application. A public power provider that has withdrawn or is deemed to have withdrawn its Application, or that received an allocation that expired or was forfeited, may not reapply for an allocation pursuant to this Notice. See section 3.01 of this Notice for information on reallocations.

g. Notice of voluntary forfeiture. If an Applicant determines that it does not intend to use any part of its allocation of volume cap (including in circumstances in which the Applicant determines to finance the project with financing other than the proposed bonds), it must notify the IRS in writing at the address set forth in section 3.02.d. of this Notice of its intention to forfeit such part of the allocation and, when the IRS receives this notice from the Applicant, the IRS will treat that allocated amount as forfeited and reverting to the IRS. The forfeited amount will be available for reallocation.

## **SECTION 6. CONSENT TO DISCLOSURE OF ALLOCATION**

To provide the public with information on how the volume cap has been allocated and to facilitate oversight of the New CREBs program, the IRS intends to publish on the IRS web site at <http://www.irs.gov/Tax-Exempt-Bonds> certain data regarding the results of the allocation process. The data will be most useful to the public if it identifies the specific allocations awarded. Pursuant to § 6103, consent is required for the IRS to

disclose identifying information with respect to Applicants awarded an allocation. Therefore, the IRS seeks the Applicants' consent for the IRS to disclose the name of the issuer, the name of the qualified renewable energy facility owner (if other than the issuer), the type and location of the facility that is the subject of the Application, and the amount of volume cap allocation awarded to that Applicant. To provide valid consent, the consent must be in the form set forth in Appendix B. This consent to disclosure of an Applicant's information is optional; an Applicant is not required to sign the consent to receive an allocation. The IRS will not publish identifying information on Applications that are not awarded an allocation of volume cap or pending Applications, but may publish the aggregate amount of allocation requests.

## **SECTION 7. DEVIATIONS FROM INFORMATION IN APPLICATION**

a. Insubstantial deviations--(i) In general. An allocation of volume cap is valid for § 54C if the proposed bonds are issued and the proceeds of such bonds are allocated to expenditures in a manner that does not substantially deviate from the information submitted in the Application. For this purpose, whether a deviation from the information submitted in the Application constitutes an insubstantial deviation is determined based on all the facts and circumstances using criteria similar to those used under § 5f.103-2(f)(2) of the regulations, as amended, regarding insubstantial deviations in the information required for public approval of tax-exempt private activity bonds under § 147(f) of the Code. IRS approval is not required for insubstantial deviations, and the IRS will not provide advice or rule on whether a deviation is insubstantial.

(ii) Notice of insubstantial deviation--(1) Deviations before the submission of Notice of Issuance. If the insubstantial deviation occurs before the Applicant submits

the Notice of Issuance described in section 8.b. of this Notice, the Notice of Issuance must include a description of the insubstantial deviation.

(2) Deviations after the submission of the Notice of Issuance. If the insubstantial deviation occurs after the Applicant submits the Notice of Issuance required under section 8.b. of this Notice, the Applicant must submit a supplement to the Notice of Issuance that describes the insubstantial deviation. The supplement should contain a copy of the Notice of Issuance as well as the details of the deviation and should be sent to the same address as the Notice of Issuance.

b. Substantial deviations--(i) Substantial deviations before issuance. Other than as provided in section 7.b.(ii) below, an allocation of volume cap under an Application is invalid for purposes of § 54C if there is a change relating to the issuance of the proposed bonds or the allocation of the proceeds of such bonds to expenditures that substantially deviates from the information submitted in the Application. In the event of such a change prior to the issuance of its proposed bonds, the Applicant may notify the IRS that it does not intend to use the original allocation of bond volume cap and may submit a new Application under this Notice or future administrative guidance, as applicable, reflecting the modified information.

(ii) Certain post-issuance deviations. A substantial deviation that occurs after the proposed bonds are issued and prior to the allocation of proceeds of such bonds to expenditures under the general rule set forth in § 1.148-6(d)(1)(iii) will not invalidate the allocation of volume cap under the Application if, and only if, the substantial deviation does not change the category of qualified owner for the project and the Applicant submits a supplement to the Notice of Issuance (as defined in section 8.b. of this

Notice) to the IRS. The supplement must (1) include a statement demonstrating that the Applicant, at the time of the issuance of the bonds, reasonably expected that the issuance of the proposed bonds and the allocation of the proceeds of such bonds to expenditures would not substantially deviate from the information provided in the Application; (2) describe in detail the substantial deviation and the surrounding circumstances by reference to the information submitted in the Application and the actual information subsequent to the bond issuance; and (3) include a certification that the Applicant has received an opinion from bond counsel to the effect that the change will not cause the bonds to fail to meet the requirements of §§ 54A and 54C (including any applicable regulatory and administrative guidance published under those Code sections). The Applicant must send this supplement to the address set forth in section 8.b. of this Notice within 90 days of the date that the Applicant reasonably expected that there would be a deviation and the supplement must be accompanied by a declaration, subject to the penalty of perjury, in substantially the same form as the declaration under section 3.02.k. of this Notice.

## **SECTION 8. INFORMATION REPORTING**

a. Information reporting. Section 54A(d)(3) requires issuers of New CREBs to submit information reporting returns to the IRS similar to those required to be submitted under § 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 § 149(e) on forms prescribed by the IRS. Subject to updated IRS information reporting forms or procedures, an issuer of New CREBs should file Form

8038-TC. For this Notice, the term “issue” has the meaning used for tax-exempt bond purposes in § 1.150-1(c).

b. Notice of issuance. Not later than 15 days after the proposed bonds are issued, the Applicant shall send to the IRS a notice of issuance (Notice of Issuance) for the bonds, which shall include the following information: (1) the Applicant’s name and taxpayer identification number; (2) the issue price of the bonds issued; (3) the issue date of the bonds; and (4) a description of the project financed with the bonds. If the IRS has not received a Notice of Issuance within 15 days of the scheduled expiration of an allocation, the IRS may request that the Applicant submit the Notice of Issuance or confirm that the allocation was forfeited. If the Applicant fails to submit the Notice of Issuance within 15 days of this request or fails to confirm that the allocation was forfeited, the IRS, in its discretion, may treat the allocation as forfeited and as having reverted back to the IRS and available for reallocation. The Notice of Issuance or written confirmation that the allocation was forfeited should be sent to: Internal Revenue Service, SE:T:GE:TEB:CPM, Attention: Kenneth Stengel, 1122 Town & Country Commons, Chesterfield, MO 63017. See section 7.b. of this Notice for requirements when there are substantial deviations.

## **SECTION 9. RELIANCE ON NOTICE AND INTERIM GUIDANCE**

Taxpayers may rely on the interim guidance provided in this Notice, Notice 2009-33, and Notice 2010-35, 2010-19 I.R.B. 660 (May 10, 2010), and, to the extent not inconsistent with §§ 54A and 54C, taxpayers may also rely on Notice 2006-7, 2006-1 C.B. 559 (March 6, 2006), and Notice 2007-26, 2007-14 I.R.B. 870 (April 2, 2007).

## **SECTION 10. EFFECT ON OTHER DOCUMENTS**

To the extent not amended by the 2008 Act and the 2009 Act, references to § 54 of the Code in Notice 2006-7 and Notice 2007-26 apply as if the references were to corresponding provisions of §§ 54A and 54C.

For the application requirements for Tribal Economic Development Bonds, see Notice 2012-48, 2012-31 I.R.B. 102 (July 30, 2012). Differences in the application requirements between this Notice and Notice 2012-48 are generally based upon the differences between the Tribal Economic Development Bond and the New Clean Renewable Energy Bond programs.

#### **SECTION 11. EFFECTIVE DATE**

This Notice is effective as of February 3, 2015.

#### **SECTION 12. PAPERWORK REDUCTION ACT**

The collections of information contained in this Notice have been reviewed and approved by the Office of Management and Budget in accordance with the paperwork Reduction Act (44 U.S.C. 3507) under control number 1545– 2160.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

The collections of information in this Notice are in sections 3, 5, 6, 7, and 8.b. of this Notice. This information is required to implement and administer the New Clean Renewable Energy Bond (New CREBs) program under § 54C of the Code. Information collected under sections 3, 5, 7, and 8.b. of this Notice will be used by the IRS to determine (1) an Applicant's eligibility to receive an allocation of volume cap for New CREBs and (2) the amount of available volume cap that may be allocated to each

Applicant. Information collected under section 6 of this Notice will be used by the IRS to provide the public with information on how the volume cap has been allocated and to facilitate oversight of the New CREBs program. The collections of information are voluntary under section 6 of this Notice and required to obtain a benefit under sections 3, 5, 7, and 8.b. The likely respondents are state or local governments, certain public electric utilities, and certain mutual or cooperative electric companies.

The estimated total annual reporting and/or recordkeeping burden is 900 hours.

The estimated burden per collection per respondent/recordkeeper varies from 0.5 hours to 4 hours, depending on the type of collection and individual circumstances, with an estimated average of 2.25 hours. The estimated number of respondents and/or recordkeepers is 400.

The estimated annual frequency of responses (used for reporting requirements only) is 100.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by section 6103.

### **SECTION 13. DRAFTING INFORMATION**

The principal authors of this Notice are Debbie Cho of the IRS Office of Tax Exempt Bonds and Zoran Stojanovic of the Office of Associate Chief Counsel (Financial Institutions and Products). For further information regarding this Notice contact Ms. Cho at 714-347-9431(not a toll-free call) or Mr. Stojanovic at 202-317-4564 (not a toll-free call). For further information about submitted Applications, contact Kenneth Stengel at



(636) 255-1286 (not a toll-free call).

**APPENDIX A**

**APPLICATION FOR ALLOCATION OF  
NEW CLEAN RENEWABLE ENERGY BOND VOLUME CAP**

Internal Revenue Service  
SE:T:GE:TEB:CPM  
Attention: Kenneth Stengel  
1122 Town & Country Commons  
Chesterfield, MO 63017

Dear Sir or Madam:

The following constitutes the application (Application) of (Name) (Applicant) for allocation of new clean renewable energy bond (New CREB) volume cap under § 54C(a) of the Internal Revenue Code (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 New CREB volume cap for more than one qualified renewable energy facility, then all of the required information in the Application must be provided separately for each facility.)*

**1. Applicant/issuer.**

Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Telephone Number \_\_\_\_\_  
Fax Number \_\_\_\_\_  
Taxpayer Identification Number \_\_\_\_\_

**2. Status of issuer. (Select as appropriate)**

The Applicant/Issuer is a “qualified issuer” under § 54C(d)(6) because it is --

(i) a “clean renewable energy bond 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 C.

(ii) a “cooperative electric company” that is a mutual or cooperative electric company described in § 501(c)(12) or § 1381(a)(2)(C), as demonstrated by the attached documents included as Exhibit C, 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, a possession of the United States, the District of Columbia, an Indian tribal government, or any political subdivision of the foregoing, as demonstrated by the attached documents included as Exhibit C. (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 a county, city, municipality, township, or borough.)

(iv) a “public power provider” that is a State utility with a service obligation, as such terms are defined in § 217 of the Federal Power Act (as in effect on October 3, 2008), as demonstrated by the attached documents included as Exhibit C.

(v) a “not-for-profit electric utility which has received a loan or loan guarantee under the Rural Electrification Act,” as demonstrated by the attached documents included as Exhibit C. For this purpose, supporting documents should include copies of the articles of incorporation and bylaws of the not-for-profit electric utility, and of the loan or loan guarantee documents.

**3. Name of Qualified Renewable Energy Facility.**

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**4. Detailed Description of the Qualified Renewable Energy Facility.** A reasonably detailed description of the qualified renewable energy facility or facilities (the “Project”) is set forth below or in attached Exhibit A, including reasonably expected costs of components, such as land, site preparation, equipment, installation, other dedicated facilities such as transmission, facility capacity, and projected or expected use of the power produced at the facility.

**5. Project Cost.** Include in the attached Exhibit B a description of the reasonably expected costs of the Project and a certification that none of the reasonably expected costs of the Project to be financed with New CREBs pursuant to the allocation were included in a previous application unless the IRS has been notified that such application has been withdrawn or that any previous allocation for those costs reverted to the IRS.

**6. Qualified Renewable Energy Facility Owner**

Name \_\_\_\_\_

Street Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Taxpayer Identification Number \_\_\_\_\_

**7. Status of Owner** – *(Select as appropriate the category with respect to which the allocation is requested)*

The project is owned by a qualified entity under § 54C(d)(1) because the owner is --

(i) a qualified owner under § 54C(d)(4) that is a mutual or cooperative electric company under § 501(c)(12) or § 1381(a)(2)(C), as demonstrated by the attached documents included as Exhibit C, including a copy of the determination letter previously obtained from the IRS, if any (or other relevant documents). Also, the project owner is not a public power provider under § 54C(d)(2).

(ii) a qualified owner under § 54C(d)(3) that is a “governmental body” and is a State, a possession of the United States, the District of Columbia, an Indian tribal government, or any political subdivision of the foregoing, as demonstrated by the attached documents included as Exhibit C, and not a public power provider under § 54C(d)(2). (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.)

(iii) a qualified owner under § 54C(d)(2) that is a “public power provider” and is a State utility with a service obligation, as such terms are defined in § 217 of the Federal Power Act (as in effect on October 3, 2008), as demonstrated by the attached documents included as Exhibit C. For this purpose, supporting documents should include copies of the articles of incorporation and bylaws of the electric utility.

If the expected qualified owner of the project is described in more than one category of qualified owners under § 54C(d)(2), (3), or (4), the Applicant must identify only one such category for which it is seeking volume cap for the project.

An Application for a project to be owned by a governmental body or cooperative electric company must include:

- (i) a certification that the expected qualified owner of the project is not a public power provider under section § 54C(d)(2).
- (ii) a statement that the aggregate amount of New CREB volume cap requested along with allocations previously received by it and members of the same controlled group, as defined in Treasury Regulation § 1.150-1(e), does not exceed the Volume Cap Limit in effect as of the submission date of the Application.

Each Application must state that the Applicant and members of the same controlled group are not seeking separate allocations for the same project costs.

**8. Qualified Renewable Energy Facility.** The Project is one or more qualified renewable energy facilities within the meaning of § 54C(d)(1) of the Code because it is a “qualified facility” (as determined under § 45(d) of the Code without regard to § 45(d)(8) and (10) and without regard to any placed in service date) that is (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 § 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 facility – a facility using open-loop biomass (as defined in § 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 § 45(c)) or solar energy to produce electricity (not including a facility described in § 48(a)(3) the basis of which is taken into account by the taxpayer for purposes of determining the energy credit under § 48 of the Code);

(5) a small irrigation power facility – a facility using small irrigation power (as defined in § 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 § 45(c));

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

(8) a qualified hydropower facility – a facility engaged in qualified hydropower production (as defined in § 45(c)); or

(9) a marine and hydrokinetic renewable energy facility – a facility producing electricity from marine and hydrokinetic renewable energy (as defined in § 45(c)) with a nameplate capacity of at least 150 kilowatts.

**9. Construction Commencement Date and Placed in Service Date.** (If the Application is for more than one facility, a separate statement must be included for each facility.) The construction, installation and equipping of the facility began or is expected to begin on \_\_\_\_\_. The facility is expected to be placed into service on or before \_\_\_\_\_.

**10. Independent Engineer's Certificate** (If the Application is for more than one facility, a separate certificate must be included for each facility.) Attached as Exhibit D hereto is a certification by an independent, licensed engineer to the effect that each facility in the Project will meet the requirements for a "qualified facility" (as determined under § 45(d) of the Code (without regard to § 45(d)(8) and (10) and without regard to any placed in service date), and that each facility, upon being placed in service, is reasonably expected to produce electricity.

**11. 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 \_\_\_\_\_

**12. Individual to contact for more information about the Project.**

Name \_\_\_\_\_

Title \_\_\_\_\_

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 Applicant and a properly executed Form 8821 (or Form 2848) 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.

**13. Approvals.** Include in the attached Exhibit E a certification that all required Federal, State, and local approvals (regulatory and otherwise) for the Project, the proposed New CREBs, and any other required financing for the Project have been obtained or, if any approvals have not yet been obtained, a certification that the Applicant reasonably expects to receive all required approvals in time to permit issuance of the proposed bonds before the expiration of the volume cap allocation. In addition, include in the attached Exhibit E any required approvals that have not been obtained and describe the Applicant's plan and expected time frame for obtaining such approvals.

**14. Plan of financing.** Include in the attached Exhibit F a plan of financing for the Project which includes: a reasonably detailed description of the plan of financing which includes (1) the amount of New CREBs expected to be issued together with a description of how proceeds of such bonds will be allocated to the project, (2) any other reasonably expected sources of financing for the project together with a description of how such financing will be allocated to the project, and (3) documentation from an independent third party who is knowledgeable about the marketability of municipal bonds evidencing that the proposed bonds are reasonably expected to be marketed prior to the expiration of the volume cap allocation set forth in section 5.e. of Notice 2015-12. Documentation that may be used to meet this requirement for the proposed bonds includes the following: a bond purchase commitment letter from an investor; a credit enhancement commitment letter from a financial institution; a letter from an underwriter or financial advisor to the effect that the sale of the proposed bonds is likely to be completed in time to permit issuance of the proposed bonds before the expiration of the volume cap allocation for the proposed bonds; documentation similar to the foregoing documentation; or a combination of the foregoing documentation.

**15. Compliance with federal tax laws.** Include in the attached Exhibit G a certification that the Applicant reasonably expects that the proposed bonds will meet the applicable requirements of §§ 54A and 54C and that the Applicant has engaged bond counsel to render an opinion to the effect that the proposed bonds will meet those requirements.

**16. Certification of readiness to issue.** Include in the attached Exhibit H a certification that the Applicant reasonably expects to use the volume cap allocation by issuing New CREBs prior to the expiration of the volume cap allocation.

**17. Certain forfeitures.** The Applicant must either (i) include in the attached Exhibit I a certification that no previous forfeitures or expirations of volume cap occurred with respect to volume cap allocated under Notice \_\_\_\_\_; or (ii) if the Applicant previously received an allocation of volume cap under Notice \_\_\_\_\_ that was forfeited or expired and reverted to the IRS (in whole or in part), then the Applicant must include in the attached Exhibit I an identification of such previous allocation and explain the reasons for such prior forfeiture or expiration.

**18. Reimbursements.** *(For reimbursements, include the following statement.)* The owner of the Project intends to use the proceeds of New CREBs to reimburse amounts that the owner paid with respect to the Project in accordance with § 54A(d)(2)(D). The Applicant certifies that the requirements of § 54A(d)(2)(D) will be met with respect to any such reimbursement.

**19. Dollar amount of allocation requested for the Project.** The Applicant hereby requests a New CREBs volume cap allocation in the amount of \$\_\_\_\_\_.

**20. Penalty of perjury statement and signatures.**

I hereby certify that I am an authorized officer or official of the Applicant, that I 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 Applicant 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) described herein, and (ii) I have examined this Application and the supporting documents, and to the best of my knowledge and belief, all of the facts contained in this Application, any supplemental submission, and the supporting documents are true, correct, and complete.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT A**

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

**EXHIBIT B**

**DESCRIPTION OF PROJECT COSTS  
(RESPONSE TO QUESTION 5 OF THE APPLICATION)**

**Exhibit C**  
**DOCUMENTS DESCRIBING QUALIFIED ISSUERS AND QUALIFIED OWNER'S ORGANIZATIONAL**  
**STATUS (RESPONSE TO QUESTIONS 2 AND 7 OF THE APPLICATION)**

**Exhibit D**  
**ENGINEER'S CERTIFICATE**  
**(RESPONSE TO QUESTION 10 OF THE APPLICATION)**

Dated: \_\_\_\_\_

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 new clean renewable energy bonds ("New CREBs") under § 54C of the Internal Revenue Code, as amended (the "Code"). The New CREBs are being issued to finance the costs of a [insert type of qualified renewable energy facility described in Code § 45(d), or a portion thereof,] owned by [Name of qualified renewable energy facility owner \_\_\_\_\_] 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.
  
2. I have reviewed the Application for a New 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 facility will meet the requirements to be a "qualified renewable energy facility" under section 54C(d)(1) of the Code and correspondingly a "qualified facility" under § 45(d) of the Code (determined without regard to § 45(d)(8) and (10) and to any placed in service date).
  
3. To the best of my knowledge, information and belief, the facility, upon being placed in service, is reasonably expected to 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: \_\_\_\_\_

Title: \_\_\_\_\_

Company: \_\_\_\_\_

**EXHIBIT E**

**APPROVALS  
(RESPONSE TO QUESTION 13 OF THE APPLICATION)**

**EXHIBIT F**

**PLAN OF FINANCING  
(RESPONSE TO QUESTION 14 OF THE APPLICATION)**

**EXHIBIT G**

**COMPLIANCE WITH FEDERAL TAX LAWS  
(RESPONSE TO QUESTION 15 OF THE APPLICATION)**

**EXHIBIT H**

**STATEMENT OF READINESS TO ISSUE  
(RESPONSE TO QUESTION 16 OF THE APPLICATION)**

I hereby certify that I am an authorized officer or official of the Applicant, that I 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 Applicant in making this Application. I certify that the Applicant reasonably expects to issue the New Clean Renewable Energy Bonds pursuant to the allocation of volume cap for those bonds to be received pursuant to the Application prior to the expiration date of the volume cap allocation.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**EXHIBIT I**  
**CERTAIN FORFEITURES**  
**(RESPONSE TO QUESTION 17 OF THE APPLICATION)**

**APPENDIX B**

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

In the event that the Application of [Name of Applicant \_\_\_\_\_] (Applicant) for an allocation of authority to issue new clean renewable energy bonds (New CREBs) under § 54C of the Internal Revenue Code (Code) is approved, the undersigned authorized representative of the Applicant hereby consents to the disclosure by the Internal Revenue Service through publication of a public release on the IRS web site at <http://www.irs.gov/Tax-Exempt-Bonds> of the name of Applicant (issuer), the name of the qualified renewable energy facility owner (if other than the issuer), the type and location of the facility that is the subject of the Application, and the amount of the allocation, if any, of volume cap authority to issue New CREBs for such facility. 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 hereof. 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 § 6103 of the 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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

## APPENDIX C

### CONFIRMATION OF ACCEPTANCE OF LESSER ALLOCATION AMOUNT AND CERTIFICATION OF ACCURACY OF APPLICATION INFORMATION BASED ON THE LESSER ALLOCATION AMOUNT

This certificate is being provided to the Internal Revenue Service ("IRS") in connection with an application (the "Application") by [Name of Applicant: \_\_\_\_\_] (the "Applicant") to the IRS requesting an allocation of volume cap authority to issue new clean renewable energy bonds ("New CREBs") under § 54C of the Internal Revenue Code, as amended (the "Code"). The New CREBs are being issued to finance costs of certain qualified renewable energy facility or facilities described more particularly in the Application (the "Project"). The undersigned hereby certifies as follows:

1. The Applicant requested volume cap pursuant to the Application in the amount of \$\_\_\_\_\_. Because the amount of volume cap requested in applications satisfying the requirements of Notice \_\_\_\_\_ exceeds the amount of volume cap available for allocation, the Applicant was notified by the IRS that it could receive an allocation of \$\_\_\_\_\_.
2. The Applicant confirms its decision to accept the allocation in the amount of \$\_\_\_\_\_.
3. The Applicant certifies that the certifications and other information included in the Application pursuant to section 3.02.e. of Notice \_\_\_\_\_, and supplemented as necessary in attachments to this certification, are accurate (subject to provisions of section 7.a. of the Notice relating to insubstantial deviations) based on an amount of allocation requested that is equal to the reduced allocation amount.

I hereby certify that I am an authorized officer or official of the Applicant, that I 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 Applicant with respect to this certificate and the underlying Application.

Under penalties of perjury, I declare that (i) I have knowledge of the relevant facts and circumstances relating to this certificate, the underlying Application and the Project(s), and (ii) I have examined this certificate, the underlying Application, and the supporting documents, and, to the best of my knowledge and belief, all of the facts contained in this certificate, and the supporting documents are true, correct, and complete.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX D**

**CONFIRMATION OF DELAYING DECISION ON WHETHER TO ACCEPT LESSER ALLOCATION**

This certificate is being provided to the Internal Revenue Service (“IRS”) in connection with an application (the “Application”) by [Name of Applicant: \_\_\_\_\_] (the “Applicant”) to the IRS requesting an allocation of volume cap authority to issue new clean renewable energy bonds (“New CREBs”) under § 54C of the Internal Revenue Code, as amended (the “Code”). The New CREBs are being issued to finance costs of certain qualified renewable energy facility or facilities described more particularly in the Application (the “Project”). The undersigned hereby certifies as follows:

The Applicant requests to delay its decision on whether to accept the proposed lesser amount until not later than \_\_\_\_\_ *[insert date that is no later than 90 days from the submission date]*. The Applicant understands that an allocation in the full amount of its request may be made if sufficient volume cap for its request becomes available prior to such date.

I hereby certify that I am an authorized officer or official of the Applicant, that I 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 Applicant with respect to this certificate and the underlying Application. Under penalties of perjury, I declare that (i) I have knowledge of the relevant facts and circumstances relating to this certificate, the underlying Application and the Project(s), and (ii) I have examined this certificate, the underlying Application, and the supporting documents, and, to the best of my knowledge and belief, all of the facts contained in this certificate, and the supporting documents are true, correct, and complete.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_