

## DEPARTMENT OF EDUCATION

### Colorado State Board of Education

## RULES GOVERNING THE RENEWABLE ENERGY AND ENERGY EFFICIENCY FOR SCHOOLS LOAN PROGRAM

### 1 CCR 301-85

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### Background

The Renewable Energy and Energy Efficiency for Schools Loan Program "REEES Loan Program" was created by House Bill 09-1312 and later amended by Senate Bill 14-202. The goal of the program is to provide low interest loans to school districts for the purpose of installing renewable energy systems and undertake energy efficiency improvements.

#### Authority

These rules are adopted pursuant to the powers and duties of the state board set forth in §22-2-107(1)(c) C.R.S. and §22-92-105(1) C.R.S. Under this provision, the state board of education, in consultation with the Colorado Energy Office, shall promulgate rules establishing policies and procedures for the administration of the Renewable Energy and Energy Efficiency for Schools Loan Program.

#### Scope and Purpose

These rules are promulgated pursuant to the "Renewable Energy and Energy Efficiency for Schools Loan Program Act," §22-92-101 et seq., C.R.S. As set forth in the legislative declaration, §22-92-102(3) the general assembly determined that it would serve the best interests of Colorado schools for the state to make available loans to support the efforts of schools that choose to undertake renewable energy projects or energy efficiency projects. Pursuant to §22-92-105(1), C.R.S., the state board of education, in consultation with the Colorado Energy Office, shall promulgate rules establishing policies and procedures for the administration of the renewable energy and energy efficiency for schools loan program. §22-92-105(1), C.R.S. provides that at a minimum, the rules shall include:

- (a) Procedures by which a qualified school district may apply for a loan, the form of the loan application, the information to be provided by an applicant, and the criteria used by the office for recommending awarding and denying loans;
- (b) The requirements that the office shall require of loan applicants, which requirements shall include, but need not be limited to a requirement that a loan applicant submit with its application:
  - (I) An energy rating for the facility for which the loan is intended that demonstrates that the facility qualifies for federal energy star label or meets the energy requirements set forth in §22-32-124.3, C.R.S.; OR
  - (II) An energy efficiency plan that is created in consultation with the office, which plan includes:
    - (A) Cost-effective energy-saving measures and programs that the applicant will implement; and

- (B) Actions that the applicant will take to implement, monitor, review, and revise the plan.

**1. Definitions**

- 1.1. "Applicant" means a Qualified School District that has applied and/or intends to apply for a loan.
- 1.2. "Bank" shall have the same meaning as set forth in section 11-101-401(5), C.R.S.
- 1.4. "Energy-Efficient Project" means a project that will result in more efficient use of energy or resources. The term includes.
- 1.4.1. installation of equipment and related infrastructure that will help defray energy costs;
- 1.4.2. improving the energy efficiency of a building by addressing lighting issues, improving mechanical systems and equipment, adding insulation or otherwise improving the building envelope, adding or incorporating solar thermal technologies, or improving operations management;
- 1.4.3. reducing water usage or water consumption; and
- 1.4.4. improving the energy efficiency of motor vehicle fleets, including bus fleets, through measures including the use of hybrid or alternative-fuel vehicles and the addition of fuel-saving technologies to existing vehicles.
- 1.5. "Public School Fund" means the public school fund created and existing pursuant to section 3 of Article IX of the state constitution.
- 1.6. "Qualified School District" means a school district in the state that has a renewable energy project team.
- 1.7. "Renewable Energy and Energy Efficiency for Schools Loan Program" or "REEES Loan Program" means the renewable energy and energy efficiency for schools loan program created in §22-92-104 C.R.S.
- 1.8. "Renewable Energy and Energy Efficiency for Schools Loan Program Administration Fund" or "Fund" means the Renewable Energy and Energy Efficiency for Schools Loan Program Administration Fund created in §22-92-106. C.R.S.
- 1.9. "Renewable Energy Project" means a project to help a qualified school district install equipment and related infrastructure that will help defray the school district's energy costs and provide educational opportunities for students relating to the generation of renewable energy. A "Renewable Energy Project" shall be operated in compliance with existing laws and may incorporate one or more of the following:
- 1.9.1. Wind energy;
- 1.9.2. Solar energy;
- 1.9.5. Other sources of renewable energy.

- 1.10. "Renewable Energy Project Team" means a team of people who are dedicated to a renewable energy project at a school district. A Renewable Energy Project Team shall include, at a minimum, representatives of the school district, representatives of the local community, and at least one member who provides professional technical assistance to the school district to facilitate a Renewable Energy Project or an Energy Efficiency Project. The member of a Renewable Energy Project Team who provides professional technical assistance to the school district may be a representative of a local electrical utility.

## **2. Eligibility and General Terms**

- 2.1. The following entities are eligible to apply for a Loan:
  - 2.1.1. Qualified School Districts that choose to undertake Renewable Energy Projects or Energy Efficiency Projects.
  - 2.1.2. A Qualified School District may apply for a loan from the REES Loan Program on behalf of a charter school authorized by a district.
- 2.2. Renewable Energy and Energy Efficiency Project loans are provided to Qualified School Districts on a competitive basis. Limited loan funds are available and not all applications may be selected for loans.
- 2.3. No school district shall have more than \$1,000,000 in Program Loans outstanding at any time.
- 2.4. The maximum loan term allowed shall be fifteen (15) years commencing on the date of the REEES Loan approval and cannot exceed the life of the Renewable Energy Project.
- 2.5. Pursuant to §22-92.102(2), C.R.S., if a Qualified School District applies for a loan from the REEES Loan Program, and the State Treasurer authorizes a loan for the Qualified School District pursuant to §22-92-107, *et seq.*, C.R.S., the Qualified School District shall not accept the loan unless the Qualified School District has first determined what financing terms are available to it from at least two banks.

## **3. REEES Loan Program Process Outline**

- 3.1. The Office is available to provide technical support and guidance to school districts considering energy projects.
- 3.2. The Office shall review each application received from a Qualified School District pursuant to §22-92-104(1), C.R.S. and evaluate the Renewable Energy Project or Energy Efficiency Project described therein, and make a recommendation to the State Treasurer as to whether to award the loan and the amount of the loan. If the Office determines a application is missing any information required by the Office, the Office may contact the applicant to obtain the missing information.
- 3.3. Application cycles run on a semi-annual basis and will close on, or the next business day following, August 31 and February 28 of each year. Applications must be postmarked by the closing date to be considered valid. The date an electronic email was sent containing a Application shall be considered the postmark date.
  - 3.2.1. Within three (3) days after the closing of the application deadline, the Office will notify the Applicant that the application has been received..

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- 3.2.2. In the event the application is incomplete, the Office will notify the Applicant within five (5) days in writing that additional information is needed, and the Applicant shall provide such information within thirty (30) days of receipt of the written notification from the Office.
- 3.2.3. Within forty-five (45) days of the Application deadline, the Office will:
- 3.2.3.1 Review each application;
  - 3.2.3.2 Write a report evaluating the criteria of each application;
  - 3.2.3.3 Submit the prioritized list of projects to the State Treasurer for which the Office is recommending assistance;
  - 3.2.3.4 Notify all Applicants in writing whether they have been recommended for approval
- 3.2.4. The Office may, in its sole discretion, extend these deadlines.
- 3.2.5. If the Office extends the deadline for applications, the Office will post the deadline extension on its website at <http://www.colorado.gov/energy>
- 3.4. In reviewing applications for Renewable Energy Projects and Energy Efficiency Projects the Office shall consider, at a minimum, whether a Qualified School District would reduce its energy costs by the implementation of the Renewable Energy Project or Energy Efficiency Project that is the subject of each application.
- 3.5. The school district shall pay any fees established by the State Treasurer. As set forth in §22-92-105(3), C.R.S., the State Treasurer is authorized to require each Qualified School District that receives a loan from the REEES Loan Program to pay to the Office a fee that reflects the direct and indirect costs incurred in administering the loans pursuant to §22-92-107, C.R.S. If the State Treasurer elects to impose a fee pursuant to §22-92-105 (3) C.R.S., he or she shall notify the Colorado Energy Office and the State Board of Education of the decision to impose the fee. A fee imposed pursuant to §22-92-105(3), C.R.S., may be imposed on a regularly scheduled basis to be determined by the State Treasurer. A Qualified School District that receives a loan from the REEES Loan Program shall be required to pay the fee until the loan is repaid in full.
- 3.6. A Qualified School District that applies for a loan through the REEES Loan Program for a Renewable Energy Project shall contact its local electrical utility and request the utility, at the utility's discretion, to appoint a representative of the utility on the Qualified School District's Renewable Energy Project Team.
- 3.7. In the event of an unfunded project, the Applicant may resubmit in future application cycles.
- 4. Permissible Uses of Loans**
- 4.1. A Qualified School District that receives a loan through the REEES Loan Program shall use the moneys received to pay for technical assistance, equipment, or installation costs associated with a Renewable Energy Project or an Energy Efficiency Project.

4.2 A Qualified School District that receives a loan through the REEES Loan Program may use moneys it receives for a Renewable Energy Project or Energy Efficiency Project to finance the acquisition of a Renewable Energy Project that is located on the school premises and, if it generates electricity, is interconnected on the customer side of the utility meter in accordance with interconnection standards adopted by the public utilities commission. Such a project may incorporate or consist of third party ownership, as authorized under §24-38.7-201, *et seq.*, through §24-38.7-203, *et seq.*, C.R.S., or an interest in a community solar garden as defined in §40-2-127, C.R.S.

4.3. A Qualified School District may apply for a loan from the REEES Loan Program for a Renewable Energy Project or an Energy Efficiency Project that is located at a charter school of the school district.

## **5. Application**

5.1. Application Requirements.

5.1.1. Application forms shall be available from the Governor's Energy Office and on the Office website at [www.colorado.gov/energy/](http://www.colorado.gov/energy/)

5.1.2. Applications shall be sent to the Office in electronic form sent to the following email address REEESLoan@state.co.us with one hard copy provided via first class mail. Each application shall be in a form prescribed by the Office and shall include the items described in Section 5 of these rules.

5.1.3. The Office shall assess the merit of the expected benefits of the Renewable Energy Project or Energy Efficiency Project by reviewing the technical eligibility and merit of the Applicant's project. The Office shall provide a written report, make a recommendation to the State Treasurer as to whether to award the loan and the amount of the loan and notify the Applicants in writing that the Office's recommendations have been sent to the State Treasurer no more than forty-five (45) days after the application deadline.

5.1.4. The State Treasurer shall evaluate and review the financial aspects of the Application and the Colorado Energy Office's recommendation and make the final loan decision based on its findings and the Office's technical opinion and recommendation and any other considerations he or she deems relevant. Pursuant to §22-92-107(2)(a) and (b), the State Treasurer shall determine the amount of the Public School Fund that may be loaned, which Qualified School Districts shall receive loans, the amount of each loan, the terms of repayment of each loan and the rate of interest to be charged on loans. The average rate of interest charged on loans made in any calendar year must at least equal the average book yield earned by the Public School Fund in the most recently completed quarter. Payments of the principal of and interest on all loans shall be returned to the Public School Fund.,

5.2. Information to be provided by an applicant.

5.2.1. Project Name: Provide the full name of the proposed Renewable Energy or Energy-Efficient Project.

5.2.2. Applicant Information: Name, position, phone and fax number, and email address of the contact person within the Qualified School District.

5.2.3. Renewable Energy Project Team: Name, position, phone and fax number, and email address of the team members.

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- 5.2.4. A detailed description of the scope and nature of the Renewable Energy Project or Energy Efficiency Project;
  - 5.2.5. The estimated amount of Financial Assistance needed for the Renewable Energy Project or Energy Efficiency Project;
  - 5.2.6. For renewable energy projects, the applicant should include information that demonstrates that the facility qualifies for the federal energy star label or meets the efficiency requirements set forth in section 22-32-123.3, C.R.S.;
  - 5.2.7. Proposed Technology
    - 5.2.6.1. Renewable Energy Project or Energy Efficiency Project Information.
      - 5.2.6.1.1. A copy of any existing master plan or facility assessment relating to the Facility or Facilities for which Financial Assistance is sought.
      - 5.2.6.1.2. Renewable Energy Technology. A detailed description of the type of technology the Qualified School District proposes to use and why such technology would reduce energy costs by the implementation of the technology.
      - 5.2.6.1.3. Equipment Specifications.
      - 5.2.6.1.4. Monitoring. A detailed description of the methodology used to monitor the energy produced by the Renewable Energy Project, or the Energy Efficiency Project and plans for ongoing monitoring.
      - 5.2.6.1.5. The estimated annual energy that will be generated by the Renewable Energy Project or Energy Efficiency Project.
    - 5.2.6.2. The following information shall be provided in the application for an Energy Efficiency Project:
      - 5.2.6.2.1. A detailed description of the how the installation of equipment and related infrastructure will help defray energy costs as well as any other benefits such as improved maintainability, improved mechanical systems and equipment, adding insulation or otherwise improving the building envelope, adding or incorporating solar thermal technologies, reduced operating costs, improved occupant comfort or improved operations management.
      - 5.2.6.2.2. The estimate of the amount of energy consumption and water consumption saved from implementing each of the proposed efficiency improvement(s) as well as any assumptions used to calculate those values.
      - 5.2.6.2.3. If applying for a motor vehicle efficiency project, provide a detailed description of how the energy efficiency of motor vehicle fleets will be optimized through: adoption of alternative fuel vehicles (AFVs); "right sizing" of fleets; and/or bench marking, tracking and monitoring of vehicle usage with clear implications for improved fuel efficiency and addition of fuel-saving technologies to existing vehicles.

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- 5.2.7. Project Capital Costs. The application shall include information on the annual operation and maintenance costs, including but not limited to the following:
    - 5.2.7.1. Project Annual Operation and Maintenance Costs
    - 5.2.7.2. Project Annual Benefits
      - 5.2.7.2.1. Economic Benefits
      - 5.2.7.2.3. Other environmental and health benefits
      - 5.2.7.2.4. If the project benefit calculations depend on sales of energy to any outside purchaser, a copy of the energy purchase agreement must be included with the application.
  - 5.2.8. Preferred Method of Repayment. Qualified School Districts shall state the term and payment schedule that best fits their necessities.
  - 5.2.9. An explanation of how the Qualified School District shall use the Renewable Energy Project(s) or Energy Efficiency Project(s) to educate the students in the Qualified School District about renewable energy and energy efficiency.
  - 5.2.10. Certification. Every application must contain the signatures of the Qualified School District superintendent.
    - 5.2.10.1. An application for a project at a charter school must include signatures of the Qualified School District superintendent, charter school board officer, and the charter school director;
  - 5.2.11. Any other information that the Office may require for the evaluation of the project.
- 5.3. In order to apply, a Qualified School District shall also provide the following information:
- 5.3.1. For Renewable Energy Projects: An Energy Rating for the Facility for which the loan is intended that demonstrates that the Facility qualifies for the Federal Energy Star label, or meets the energy efficiency requirements set forth in §22-32-124.3, C.R.S. OR
  - 5.3.2. For Energy Efficiency Projects: An Energy Efficiency Plan that is created by the Applicant, in consultation with the Office, which includes:
    - 5.3.2.1. A list of cost-effective energy-saving measures and programs that the Applicant will implement; and
    - 5.3.2.2. Actions that the applicant will take to implement, monitor, review, and revise the energy efficiency plan.

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## 6. Ranking Criteria used by the Office

- 6.1. All applications that meet the criteria for completeness and financial feasibility shall be ranked according to the project's technical merit. The highest ranking projects shall be recommended by the Office for loan approval, subject to the available funding during that application cycle.
- 6.1.1. Criteria for completeness and financial feasibility.
- 6.1.1.1. Completeness. If an Applicant fails to submit a complete application after the 30-day period defined in 3.2.2, such application will be rejected.
- 6.1.1.2. Financial feasibility. Applications failing to show that the projected revenues meet operating, debt service and replacement costs will be rejected.
- 6.1.2. Ranking Criteria.
- 6.1.2.1. Energy cost reductions (45%). Reductions in energy costs will be considered in relation to the capital and operative costs of the project.
- 6.1.2.2. Technical merit (45%). Technical reviewers will consider the likelihood of achieving the projected results, the experience of the technical assistant, the soundness of the project design, benefits other than economic benefits, and the maturity of the proposed technology when assessing the technical merit of an application.
- 6.3. Applicants that are not recommended for approval shall be notified in writing within forty-five (45) days of the application deadline.

## 7. Availability and Oversight

- 7.1. All Financial Assistance awarded is expressly conditioned on the availability of funds.
- 7.2. Oversight
- 7.2.1. Applicants shall submit a written progress report to the Office by June 30th of each year, on a form provided by the Office for each loan received which has not been closed out.
- 7.2.2. When a Qualified School District completes a project it must submit a final project report to the Office in the format required by the Office. Once the final report is submitted and final payment is made, the loan shall be considered closed.
- 7.2.3. The Office may make site visits to review project progress or to review a completed project;
- 7.2.4. The Office may require a Qualified School District to hire additional independent professional management to represent the applicant's interests, if the Office deems it necessary due to the size of the project, the complexity of the project, or the school district's ability to manage the project with their Renewable Energy Project Team. The cost of the independent professional management shall be paid by the School Districts out of the Loan.

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**Editor's Notes**

**History**

Entire rule eff. 07/30/2010.

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