



**NOTICES OF PROPOSED RULEMAKING**

This section of the *Arizona Administrative Register* contains Notices of Proposed Rulemakings.

A proposed rulemaking is filed by an agency upon completion and submittal of a Notice of Rulemaking Docket Opening. Often these two documents are filed at the same time and published in the same *Register* issue.

When an agency files a Notice of Proposed Rulemaking under the Administrative Procedure Act (APA), the notice is published in the *Register* within three weeks of filing. See the publication schedule in the back of each issue of the *Register* for more information.

Under the APA, an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for making, amending, or repealing any rule (A.R.S. §§ 41-1013 and 41-1022).

The Office of the Secretary of State is the filing office and publisher of these rules. Questions about the interpretation of the proposed rules should be addressed to the agency that promulgated the rules. Refer to item #4 below to contact the person charged with the rulemaking and item #10 for the close of record and information related to public hearings and oral comments.

**NOTICE OF PROPOSED RULEMAKING  
TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 16. ARIZONA MEDICAL BOARD**

[R17-158]

**PREAMBLE**

- |   |                                 |
|---|---------------------------------|
| <b>1. <u>Article, Part, or Section Affected (as applicable)</u></b> | <b><u>Rulemaking Action</u></b> |
| R4-16-102   | Amend                           |
| R4-16-201.1   | Amend                           |
| R4-16-205   | Amend                           |
- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**  
 Authorizing statute: A.R.S. § 32-1403(A)(8)  
 Implementing statute: A.R.S. §§ 32-1434, 32-1436, and 32-1438(F)
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed rule:**  
 Notice of Rulemaking Docket Opening: 23 A.A.R. 2490, September 15, 2017 (*in this issue*)
- 4. The agency's contact person who can answer questions about the rulemaking:**  
 Name: Patricia McSorley, Executive Director  
 Address: Arizona Medical Board  
 9545 E. Doubletree Ranch Road  
 Scottsdale, AZ 85258  
 Telephone: (480) 551-2700  
 Fax: (480) 551-2704  
 E-mail: patricia.mcsorley@azmd.gov  
 Web site: www.azmd.gov
- 5. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:**  
 On January 9, 2017, Governor Ducey sent a letter to the Board requesting the Board require all physicians in Arizona to complete continuing education in drug addiction and opioid prescribing. The Governor's concern arises from the fact Arizona has the ninth highest rate of opioid-related deaths in the nation. More than two Arizonans died every day in 2016 from overdoses of opioid prescription medications or heroin. The 790 deaths was a 74 percent increase from 2012.  
 In an exempt rulemaking that went into effect on August 9, 2017, the Board established a fee for a temporary license to practice medicine in Arizona. Because the effect of this fee is time limited under A.R.S. § 41-1008(E), the Board is now making the fee using the regular rulemaking process.  
 An exemption from Executive Order 2017-02 was provided for the opioid CME rulemaking by Mara Mellstrom, Policy Advisor in the Governor's Office, in an e-mail dated March 10, 2017. Ms. Mellstrom provided an exemption for the temporary-license fee in an e-mail dated June 28, 2017.
- 6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
 The Board does not intend to review or rely on a study in its evaluation of or justification for any rule in this rulemaking.



**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

The Board estimates the rulemaking will have minimal economic impact on licensees and applicants. Licensees are not being required to obtain an additional hour of CME. Rather, they are being required simply to ensure one of the 40 statutorily required CME hours addresses opioid drug addiction. Because the fee for a temporary license to practice medicine in Arizona already exists, making the fee using the regular rulemaking process does not affect applicants.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Patricia McSorley, Executive Director  
Address: Arizona Medical Board  
9545 E. Doubletree Ranch Road  
Scottsdale, AZ 85258  
Telephone: (480) 551-2700  
Fax: (480) 551-2704  
E-mail: patricia.mcsorley@azmd.gov  
Web site: www.azmd.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

An oral proceeding regarding the proposed rules will be held as follows:

Date: Friday, November 3, 2017  
Time: 10:00 a.m.  
Location: 9535 E. Doubletree Ranch Road  
Scottsdale, AZ 85258

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The license renewed under R4-16-201.1 and the licenses for which fees are established under R4-16-205 are general permits consistent with A.R.S. § 41-1037 because each is issued to qualified individuals to conduct activities that are substantially similar in nature.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

None of the rules is more stringent than federal law. There are numerous federal laws relating to the provision of health care but none is directly applicable to this rulemaking.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact on the competitiveness of business in this state to the impact on business in other states:**

No analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 4. PROFESSIONS AND OCCUPATIONS  
CHAPTER 16. ARIZONA MEDICAL BOARD**

**ARTICLE 1. GENERAL PROVISIONS**

Section  
R4-16-102. Continuing Medical Education

**ARTICLE 2. LICENSURE**

Section  
R4-16-201.1. Application for Renewal of License  
R4-16-205. Fees and Charges

**ARTICLE 1. GENERAL PROVISIONS**

**R4-16-102. Continuing Medical Education**

A. A physician holding an active license to practice medicine in this state shall complete 40 credit hours of the continuing medical education required by A.R.S. § 32-1434 during the two calendar years preceding biennial registration.



1. The physician shall ensure at least one of the credit hours of continuing medical education is certified as Category 1, as described in subsection (B)(4), and addresses the effective and safe prescribing of opioids;
  2. ~~A physician may not carry excess hours over to another two-year cycle.~~ One hour of credit is allowed for each clock hour of participation in continuing medical education activities, unless otherwise designated in subsection (B); and
  3. The physician may not carry excess hours of continuing medical education over to another two-year cycle.
- B.** No change
1. No change
  2. No change
  3. No change
  4. No change
  5. No change
  6. No change
  7. No change
    - a. No change
    - b. No change
  8. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
- C.** No change
- D.** No change

## ARTICLE 2. LICENSURE

### R4-16-201.1. Application for Renewal of License

- A.** No change
- B.** No change
1. No change
  2. No change
  3. No change
    - a. No change
    - b. No change
    - c. No change
    - d. No change
    - e. No change
    - f. No change
    - g. No change
    - h. No change
    - i. No change
  4. No change
  5. A statement of whether the licensee has completed at least 40 hours of CME as required under A.R.S. § 32-1434 and ~~R4-6-102~~ R4-16-102, including the hour of CME required under R4-16-102(A)(1);
  6. No change
  7. No change
- C.** No change
1. No change
  2. No change
    - a. No change
    - b. No change
  3. No change
- D.** No change
1. No change
  2. No change
  3. No change

### R4-16-205. Fees and Charges

- A.** ~~As specifically authorized under A.R.S. § 32-1436(A), the Board establishes and shall collect the following fees, which are nonrefundable unless A.R.S. § 41-1077 applies: As specifically authorized under A.R.S. § 32-1436(A), the Board establishes and shall collect the following fees, which are nonrefundable unless A.R.S. § 41-1077 applies:~~
1. Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500; Application for a license through endorsement, USMLE Step 3, or Endorsement with SPX Examination, \$500;
  2. Issuance of an initial license, \$500, prorated from date of issuance to date of license renewal; Issuance of an initial license, \$500, prorated from date of issuance to date of license renewal;
  3. Renewal of license for two years, \$500; Renewal of license for two years, \$500;
  4. Application to reactivate an inactive license, \$500; Application to reactivate an inactive license, \$500;
  5. Locum tenens registration, \$350; Locum tenens registration, \$350;



- 6. ~~Annual registration of an approved internship, residency, clinical fellowship program, or short term residency program, \$50;~~ Annual registration of an approved internship, residency, clinical fellowship program, or short-term residency program, \$50;
  - 7. ~~Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250; Annual teaching license at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$250;~~
  - 8. ~~Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100; Five-day teaching permit at an approved school of medicine or at an approved hospital internship, residency, or clinical fellowship program, \$100;~~
  - 9. ~~Initial registration to dispense drugs and devices, \$200; Initial registration to dispense drugs and devices, \$200;~~
  - 10. ~~Annual renewal to dispense drugs and devices, \$150; Annual renewal to dispense drugs and devices, \$150;~~
  - 11. ~~Penalty fee for late renewal of an active license, \$350; and Penalty fee for late renewal of an active license, \$350; and~~
  - 12. ~~Application for temporary license, \$250; Application for temporary license, \$250.~~
- B. ~~As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed: As specifically authorized under A.R.S. § 32-1436(B), the Board establishes the following charges for the services listed:~~
- 1. ~~Processing fingerprints to conduct a criminal background check, \$50; Processing fingerprints to conduct a criminal background check, \$50;~~
  - 2. ~~Providing a duplicate license, \$50; Providing a duplicate license, \$50;~~
  - 3. ~~Verifying a license, \$10 per request; Verifying a license, \$10 per request;~~
  - 4. ~~Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page; Providing a copy of records, documents, letters, minutes, applications, and files, \$1 for the first three pages and 25¢ for each additional page;~~
  - 5. ~~Providing a copy of annual allopathic medical directory, \$30; and Providing a copy of annual allopathic medical directory, \$30; and~~
  - 6. ~~Providing an electronic medium containing public information about licensed physicians, \$100; Providing an electronic medium containing public information about licensed physicians, \$100.~~

**NOTICE OF PROPOSED RULEMAKING**

**TITLE 18. ENVIRONMENTAL QUALITY**

**CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA**

[R17-159]

**PREAMBLE**

<b><u>1. Article, Part, or Section Affected (as applicable)</u></b>	<b><u>Rulemaking Action</u></b>
R18-15-101	Amend
R18-15-102	Amend
R18-15-103	Amend
R18-15-104	Amend
R18-15-105	Amend
R18-15-106	Amend
R18-15-107	Amend
R18-15-201	Amend
R18-15-203	Amend
R18-15-204	Amend
R18-15-205	Amend
R18-15-206	Amend
R18-15-207	Amend
R18-15-303	Amend
R18-15-304	Amend
R18-15-305	Amend
R18-15-306	Amend
R18-15-307	Amend
R18-15-401	Amend
R18-15-402	Repeal
R18-15-402	Repeal
R18-15-402	Repeal
R18-15-402	Repeal
R18-15-403	Repeal
R18-15-403	Repeal
R18-15-403	Repeal
R18-15-404	Repeal
R18-15-404	Repeal
R18-15-404	Repeal
R18-15-405	Repeal
R18-15-405	Repeal
R18-15-405	Repeal
R18-15-405	Repeal
R18-15-406	Repeal
R18-15-406	Repeal
R18-15-406	Repeal
R18-15-407	Repeal



R18-15-408	Re-number
R18-15-501	Amend
R18-15-502	Amend
R18-15-503	Amend
R18-15-504	Amend
R18-15-505	Amend
R18-15-602	Amend
R18-15-701	Amend

**2. The statutory authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing Statutes: A.R.S. §§ 49-1203 and 49-1274

Implementing Statutes: A.R.S. §§ 41-5356, 49-1202, 49-1203, 49-1222, 49-1224, 49-1242, 49-1244, 49-1267, 49-1268, 49-1269, 49-1275

**3. A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 23 A.A.R. 615, March 17, 2017

**4. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Trish Incognito, Executive Director  
 Address: Water Infrastructure Finance Authority of Arizona  
 100 N. 15th Ave., Suite 103  
 Phoenix, AZ 85007  
 Telephone: (602) 364-1310  
 Fax: (602) 364-1327  
 E-mail: pincognito@azwifa.gov

**5. An explanation of the rule, including the agency's reasons for initiating the rulemaking:**

**A. Reasons for Initiating the Rulemaking**

The Water Infrastructure Finance Authority of Arizona (WIFA) is initiating this rulemaking to reflect recent changes to its governing statutes. The Authority proposes to modify the existing rule so the rule supports and complements state statutory changes to A.R.S. Title 49, Chapter 8 and the addition of A.R.S. Title 41, Chapter 53.

On August 6, 2016, Arizona House Bill 2666 (Fifty-second Legislature, Second Regular Session, 2016) became effective, transferring the Water Infrastructure Finance Authority (WIFA) to the newly established Arizona Finance Authority (AFA) which is governed by a newly created AFA Board of Directors.

Major changes addressed in the rulemaking include:

1. The WIFA Board of Directors was dissolved by HB 2666. Governance of the Authority is now under the AFA Board of Directors. The addition of A.R.S. § 41-5356 established a WIFA Advisory Board which provides recommendations to the AFA Board. References to the now-defunct WIFA Board are found throughout WIFA's current rules. The rulemaking reflects the new governance of the Clean Water and Drinking Water Revolving Fund programs.
2. The Water Supply Development Fund (WSDF) Committee was struck from statute by HB 2666. References to the now-defunct Water Supply Development Fund Committee are found throughout WIFA's current rules, particularly in Article 4 Water Supply Development Revolving Fund. This rulemaking updates the rules to reflect the new governance of the Water Supply Development Fund. References to the Committee have been removed and replaced with the Board, as appropriate.
3. In its 2007 session, the Legislature established the WSDF to be administered by WIFA in A.R.S. § 49-1271. Rules for the WSDF were promulgated as part of WIFA's 2010 rulemaking, paralleling the rules for the Drinking Water Revolving Fund program. This program is federally funded, and its rules are based on federal requirements which do not apply to the WSDF, a state program. This rulemaking improves the rule by reducing the regulatory burden associated with the non-applicable federal requirements currently applied to a state program.
4. Recent changes to the Clean Water Act (Water Resources Reform and Development Act of 2014) have affected the Clean Water Revolving Fund Program. These changes expanded the eligibilities of the types of recipients and the types of projects for the Clean Water Revolving Fund and allows for forgivable principal to be awarded. WIFA has evaluated these changes and revised its rules to provide flexibility so that WIFA may provide assistance to these expanded eligibilities, once WIFA's statutes are similarly revised.
5. Other clarifying edits have been made throughout A.A.C. Title 18, Chapter 15 to improve the comprehension and legal certainty of the rules.

**B. Article-by-Article Explanation of the Rule**

**ARTICLE 1**

The definitions that apply to all of Chapter 15 are located in R18-15-101. This Section is revised by amending or adding those definitions necessary to interpret the requirements of this rule and by eliminating definitions that are no longer necessary or applicable to this rule.

This rulemaking amends the following definitions: "applicant," "application," "Board," "Certified Water Quality Management Plan," "drinking water facility," "grant applicant," "grant application," "Intended Use Plan," "planning and design assistance grant," "planning and design assistance grant agreement," "planning and design loan repayment agreement," "project priority list," "recipient," "technical assistance," "wastewater treatment facility," "water provider," and "water supply development."



The following is a new term which has been added to this Section: “Advisory Board.”

The following terms are no longer applicable and have been eliminated from this rule: “Committee,” and “Priority Value.” Throughout the rules, references to the Water Supply Development Fund Committee were removed, and as applicable, were replaced with references to the Board. In Articles 2, 3 and 4, the term “Priority Value” was replaced with the words “total score” and “priority” to increase clarity.

The current Section R18-15-102(B)(2) does not provide any further clarification than the statute A.R.S. §§ 49-1203 (16) and (17), and the content of this Section is included within the financial assistance loan repayment agreements described in Section R18-15-102(B)(1). Therefore, to remove redundancy with statute and to make the rules more concise and clear, this Section was removed from the new rule.

R18-15-104 was amended to clarify the application process, including replacing the term “fiscal year” with “financial operating year (fiscal or calendar)” to clarify the timeframes to non-governmental borrowers who may not follow a “fiscal year.” This revision was also made in Articles 2, 3 and 4. Section R18-15-104(B)(5) was revised because the terms and conditions of the loan for which the beneficiaries are consenting to are not known at the time of application.

Additionally, this rulemaking revises Section R18-15-104 to clarify the differing requirements of the resolutions approved by governing bodies which are submitted at two separate times in the process to receive financial assistance. (An applicant to WIFA frequently chooses to submit two separate resolutions, one to authorize the application for financial assistance, and another to execute the loan. If its governing body allows, an applicant may choose to prepare one resolution addressing both sets of requirements.)

Most of the content in the previous Section R18-15-105(A) was incorporated into Section R18-15-106(A) as it applies to the environmental review process. The language was also expanded to include technical assistance projects.

In Section R18-15-105 and in three locations in Article 5, revisions were made to reflect current WIFA practice that canceled checks are not acceptable documentation of incurred cost.

### ARTICLES 2 AND 3

The eligibility criteria in Section 18-15-201 were amended to accommodate recent changes to federal law which expanded borrower eligibility for the Clean Water Revolving Fund to include private and non-profit entities for certain types of projects. This revision to WIFA’s rules is being made in anticipation of an eventual amendment to state statute to allow these new types of borrowers.

No changes were made to R18-15-301, R18-15-202 or R18-15-302.

Sections R18-15-203 and R18-15-303 were amended in the same manner to clarify the requirements and processes of the Project Priority Lists (PPLs). A few minor terminology edits (“priority value” and “subsidy rate index”) were made. Because an application must be submitted for inclusion on the Project Priority List, the references to projects requested by regulatory authorities and all plans prepared according to the Clean Water Act (R18-15-203(C)) or the Safe Drinking Water Act (R18-15-303(C)) were removed. These projects and plans are considered by WIFA staff in the consideration of possible projects, however, placing a project on the PPL without the potential borrower’s involvement is not appropriate. Sections R18-15-203(E) and R18-15-303(E) were revised to clarify that projects may be removed from PPL because the project was financed by another source, not necessarily long-term indebtedness, and to clarify that projects may not be transitioned to a new funding cycle’s Project Priority List without resubmittal.

The public comment process for the Project Priority Lists was revised in Sections R18-15-203 and R18-15-303. The current rules require the Authority to hold public meetings to receive comments on the Project Priority Lists. However, current practice, as required by rule in Sections R18-15-202(B) and R18-15-302(B), is that the Authority annually publicly notices the Intended Use Plans which include the Project Priority Lists for 14 days. Updates to the Project Priority Lists occur on consent agenda at the Arizona Finance Authority Board meetings. Therefore, the rules were amended to only include a public notice for the Project Priority Lists, while keeping the requirement in R18-15-202 and R18-15-302 for a public comment period and a public meeting for the Intended Use Plans.

The procedures for ranking projects with tied scores were amended in R18-15-204(B) and R18-15-304(B) to clarify that two or more projects may receive the same total points, and that the tie breaking procedures will only be utilized when there is insufficient funding.

Sections R18-15-205 and R18-15-305 were revised to clarify the requirements to be included on the fundable range. A project only needs evidence of debt authorization according to R18-15-104 to move forward with applying for WIFA funding. This is because WIFA may fund projects which include the planning and design phases of an infrastructure project, and for these projects, the applicant cannot yet obtain applicable permits, receive approval by the project plans and specifications or initiate the bid process. For the same reason, R18-15-206 and R18-15-306 were revised to remove the requirement that the applicant has obtained or is in the process of obtaining all permits and approvals before presenting the application to the Board. These revisions reflect current WIFA practice and improve the comprehension and legal certainty of the rules.

In addition to the using the clearer term “financing operating years” in place of “fiscal year”, Sections R18-15-207 and R18-15-307 were revised to include an opportunity for public comment before the Board makes a determination on an applicant’s request for financial assistance.

### ARTICLE 4

In its 2007 session, the Legislature established the WSDF to be administered by WIFA in A.R.S. § 49-1271. Rules for the WSDF were promulgated as part of WIFA’s 2010 rulemaking, paralleling the rules in Article 3 for the Drinking Water Revolving Fund program. The Drinking Water Revolving Fund program is federally funded, and its rules are based on federal requirements which do not apply to the WSDF, a state program. This rulemaking eliminates the current rules R18-15-402 and R18-15-405 which mandated the federal requirement of an Intended Use Plan and Fundable Range for the WSDF. These eliminations reduce the regulatory burden associated with a state program. The term “Project Priority List” in the renumbered Section R18-15-403, a condition of the Drinking Water Revolving Fund, has been replaced with the generic term, “project list.”

The WSDF Committee was struck from statute by House Bill 2666 (Fifty-second Legislature, Second Regular Session, 2016). The rules have been updated to reflect the new governance of the Fund by removing references to the Committee and replacing them with the Board as applicable.



Other minor edits were made to remove the connection to the Drinking Water Revolving Fund and to return to consistency with the statute, including removing the reference to “subsidy rate index”, and replacing “rank” and “priority value” with “order and priority”, and “value” with “score.”

The renumbered Section R18-15-402(F) was revised to clarify that projects may not be transitioned to the new funding cycle’s project list without resubmittal.

The procedures for ranking projects with tied scores were amended in the renumbered Section R18-15-403(B) to clarify that two or more projects may receive the same total points, and that the tie breaking procedures will only be utilized when there is insufficient funding.

The renumbered Section R18-15-404 was revised to remove the requirement that the applicant has obtained or is in the process of obtaining all permits and approvals before presenting the application to the Board. This is because WIFA may fund projects which include the planning and design phases of an infrastructure project, and for these projects, the applicant cannot yet obtain applicable permits and approvals. This revision improves the comprehension and legal certainty of the rules.

#### ARTICLE 5

Article 5 is amended to provide a clearer understanding of the technical assistance available and the required actions and process for applying for, evaluating and receiving planning and design assistance.

Throughout the rules, the Clean Water and Drinking Water State Revolving Fund planning and design technical assistance grant programs have been renamed to remove the word “grant.” This revision was made to clarify terminology between federal recipients and state sub-recipients (recipients of WIFA’s planning and design technical assistance). Federal grant recipients are subject to additional federal requirements which do not apply to recipients of WIFA funds (subrecipients of federal funds). This change of terminology reduces the regulatory burden associated with a state program. The terminology for the Water Supply Development Revolving Fund grant program is unchanged as this program is not federally funded.

Consistent with the amendments proposed in Article 4, this rulemaking amends Sections R18-15-501, R18-15-502 and R18-15-505 to remove all references to Intended Use Plan for Water Supply Development Fund Technical Assistance and to remove all references to Water Supply Development Fund Committee and replace them with the Arizona Finance Authority Board, as appropriate.

Section R18-15-503 has been revised to reflect the expanded eligibilities of applicants and project types as a result of recent changes to federal law.

Sections R18-15-503(J), R18-15-504(J) and R18-15-505(J) have been eliminated to allow WIFA to consider special circumstances in which project costs incurred prior to execution of a planning and design assistance agreement may be eligible for reimbursement.

Consistent with Section R18-15-105, Sections R18-15-503(K), R18-15-504(K) and R18-15-505(K) have been revised to remove the reference to “canceled checks.”

#### ARTICLE 6

Initial funding for the Hardship Grant Fund was provided as a one-time grant by EPA, and these grant funds have been allocated or committed to projects. WIFA does not anticipate receiving additional funds for the Hardship Grant Fund; however, this Article remains in the new rulemaking to preserve WIFA’s authority if additional future funds are received for the Hardship Grant Fund Program. Specific criteria for award in Section R18-15-602 have been eliminated as any future funding for the Hardship Grant would likely have new specific criteria, which would be different from those currently in rule.

#### ARTICLE 7

This rulemaking amends Section R18-15-701 to clarify differences in interest rate setting between projects funded by the Clean Water and Drinking Water State Revolving Funds and projects funded by the Water Supply Development Fund. The rule is being revised to clarify that within the Clean Water and Drinking Water State Revolving Funds, an applicant’s local fiscal capacity score is the primary factor in determining the interest rate, while in the Water Supply Development Fund, an applicant’s financial need is the primary factor.

The current rule does not allow forgivable principal to be awarded to Clean Water State Revolving Fund loans. The Water Resources Reform and Development Act of 2014 amended the Clean Water Act to allow for forgivable principal for Clean Water loans. The amount of forgivable principal required to be awarded is a condition of the annual federal capitalization grant. This rulemaking gives the Authority the flexibility to adhere to the federal requirements which may change from year to year. The rulemaking also clarifies that forgivable principal is only available for projects funded through either the Clean Water and Drinking Water State Revolving Funds, not the Water Supply Development Fund. The criteria for which applicants and projects are eligible for forgivable principal were revised to broadly match the criteria in the annual federal capitalization grants.

**6. A reference to any study relevant to the rule that the agency reviewed and either proposes to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

None

**7. A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

**8. The preliminary summary of the economic, small business and consumer impact:**

**A. Proposed rulemaking**

The rulemaking will ensure that WIFA is in conformance with recent statutory changes, thereby reducing confusion among the AFA Board, WIFA Advisory Board, WIFA staff, applicants to the programs, and other stakeholders. Leaving the rules unchanged will result in statutory inconsistencies and misalignment with the current processes used by WIFA staff. WIFA believes that the information in the new rules will help reduce misunderstanding.



**B. Information contained in this report**

WIFA is a public financing agency; it does not regulate any consumer or business. WIFA's primary purpose is to provide financial and technical assistance through the Clean Water Revolving Fund for publicly held wastewater treatment projects and the Drinking Water Revolving Fund for both publicly and privately held drinking water systems. Both funds were established by the U.S. Environmental Protection Agency and are funded by federal capitalization grants, state matching funds (provided in recent years by WIFA) and WIFA bond proceeds.

In the state of Arizona, there are hundreds of community water systems and publicly-owned wastewater systems who are eligible to apply for funding from WIFA. In fiscal year 2017, WIFA provided financial assistance to five drinking water systems and three wastewater systems. Through the Drinking Water Revolving Fund, \$63 million was lent in the form of financial assistance to drinking water systems around the state, while \$4.6 million was lent through the Clean Water Revolving Fund. Technical assistance was provided to five drinking water systems and four wastewater systems in fiscal year 2017, totaling \$121,631 and \$134,324 respectively.

WIFA believes that the proposed rule will result in minimal costs to the Authority and other state agencies, including the Arizona Corporation Commission, Arizona Department of Environmental Quality and Arizona Department of Water Resources. The proposed rule has a beneficial impact and is expected to have no cost or minimal cost impact to the regulated industries, including wastewater treatment facilities, drinking water facilities, and water providers; as well as small businesses and small communities. WIFA provides significant savings to wastewater and drinking water systems through below-market interest rates, forgivable principal and reduced transaction costs. Without the financial and technical assistance available through WIFA, many wastewater and drinking water systems would otherwise find it difficult, if not impossible, to obtain funding to achieve compliance or correct problems associated with water quality standards. Customers of the wastewater facility, drinking water facility, or water provider receive the ultimate benefit from improved water quality and having an adequate water supply. Furthermore, the proposed rule amendments will not have an impact on state revenues.

**9. The agency contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Trish Incognito, Executive Director  
Address: Water Infrastructure Finance Authority of Arizona  
100 N. 15th Ave., Suite 103  
Phoenix, AZ 85007  
Telephone: (602) 364-1310  
Fax: (602) 364-1327  
E-mail: pincognito@azwifa.gov

**10. The time, place, and nature of the proceedings for the making, amendment, repeal or renumber of the rule:**

Date: Monday, November 6, 2017  
Time: 1:00 p.m.  
Location: 100 N. 15th Ave., Suite 103  
Phoenix, AZ 85007  
Nature: The Authority will hold an open meeting to hear opinions and suggestions on the proposed rulemaking. In addition, written comments on the proposed rulemaking will be accepted at the office of the Water Infrastructure Finance Authority, 100 North 15th Ave., Suite 103, Phoenix, AZ 85007 between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday until November 7, 2017.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
Not applicable

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable

**12. Incorporations by reference and their locations in the rules:**

None

**13. The full text of the rules follows:**

**TITLE 18. ENVIRONMENTAL QUALITY  
CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA**





### ARTICLE 1. GENERAL PROVISIONS

#### Section

- R18-15-101. Definitions  
 R18-15-102. Types of Assistance Available  
 R18-15-103. Application Process  
 R18-15-104. General Financial Assistance Application Requirements  
 R18-15-105. General Financial Assistance Conditions  
~~R15-15-106~~ R18-15-106. Environmental Review  
 R18-15-107. Disputes

### ARTICLE 2. CLEAN WATER REVOLVING FUND

#### Section

- R18-15-201. Clean Water Revolving Fund Financial Assistance Eligibility Criteria  
 R18-15-203. Clean Water Revolving Fund Project Priority List  
 R18-15-204. Clean Water Revolving Fund Project Priority List Ranking  
 R18-15-205. Clean Water Revolving Fund Fundable Range for Financial Assistance  
 R18-15-206. Clean Water Revolving Fund Application for Financial Assistance  
 R18-15-207. Clean Water Revolving Fund Application Review for Financial Assistance

### ARTICLE 3. DRINKING WATER REVOLVING FUND

#### Section

- R18-15-303. Drinking Water Revolving Fund Project Priority List  
 R18-15-304. Drinking Water Revolving Fund Project Priority List Ranking  
 R18-15-305. Drinking Water Revolving Fund Fundable Range for Financial Assistance  
 R18-15-306. Drinking Water Revolving Fund Application for Financial Assistance  
 R18-15-307. Drinking Water Revolving Fund Application Review for Financial Assistance

### ARTICLE 4. WATER SUPPLY DEVELOPMENT REVOLVING FUND

#### Section

- R18-15-401. Water Supply Development Revolving Fund Financial Assistance Eligibility Criteria  
~~R18-15-402~~ ~~Water Supply Development Revolving Fund Intended Use Plan Renumbered~~  
~~R18-15-403~~ R18-15-402. Water Supply Development Revolving Fund Project Priority List  
~~R18-15-404~~ R18-15-403. Water Supply Development Revolving Fund Project Priority List Ranking  
~~R18-15-405~~ ~~Water Supply Development Revolving Fund Fundable Range for Financial Assistance Renumbered~~  
~~R18-15-406~~ R18-15-404. Water Supply Development Revolving Fund Application for Financial Assistance  
~~R18-15-407~~ R18-15-405. Water Supply Development Revolving Fund Application Review for Financial Assistance  
~~R18-15-408~~ R18-15-406. Water Supply Development Revolving Fund Requirements

### ARTICLE 5. TECHNICAL ASSISTANCE

#### Section

- R18-15-501. Technical Assistance  
 R18-15-502. Technical Assistance Intended Use Plan  
 R18-15-503. Clean Water Planning and Design Assistance Grants  
 R18-15-504. Drinking Water Planning and Design Assistance Grants  
 R18-15-505. Water Supply Development Planning and Design Assistance Grants

### ARTICLE 6. HARDSHIP GRANT FUND PROGRAM

#### Section

- R18-15-602. Hardship Grant Fund Financial Assistance

### ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

#### Section

- R18-15-701. Interest Rate Setting and Forgivable Principal

### ARTICLE 1. GENERAL PROVISIONS

#### **R18-15-101. Definitions**

In addition to the definitions prescribed in A.R.S. § 49-1201, the terms of this Chapter, unless otherwise specified, have the following meanings:

“Advisory Board” has same meaning as prescribed in A.R.S. § 41-5356(A)(5).

“Applicant” means a governmental unit, a non-point source project sponsor, a drinking water facility, or a water provider that is seeking financial or technical assistance from the Authority under the provisions of this Chapter.

“Application” means a request for financial or technical assistance submitted to the Board or Committee by an applicant.

“Authority” means the Water Infrastructure Finance Authority of Arizona pursuant to A.R.S. § 49-1201(1).

“Board” means the Board of Directors of the Authority pursuant to A.R.S. § 49-1201(2); means the board of directors of the Arizona finance authority established by title 41, chapter 53, article 2.



“Certified Water Quality Management Plan” ~~means a plan prepared by a single representative organization designated by the Governor according to Section 208 of the Clean Water Act, 33 U.S.C. 1288.~~ means a plan prepared by a designated Water Quality Management Planning Agency under Section 208 of the Federal Water Pollution Control Act (P.L. 92-500) as amended by the Water Quality Act of 1987 (P.L. 100-4), certified by the Governor or the Governor’s designee, and approved by the United States Environmental Protection Agency.

“Clean Water Revolving Fund” means the fund established by A.R.S. § 49-1221.

~~“Committee” means the Water Supply Development Fund Committee as defined in A.R.S. § 49-1201(5).~~

“DBE” means EPA’s Disadvantaged Business Enterprise Program.

“Dedicated revenue source for repayment” means a source of revenue pledged by a borrower to repay the financial assistance.

“Department” means the Arizona Department of Environmental Quality.

“Disbursement” means the transfer of cash from a fund to a recipient.

“Discharge” has same meaning as prescribed in A.R.S. § 49-201(12).

“Drinking water facility” has same meaning as prescribed in A.R.S. ~~§ 49-1201(6)~~ § 49-1201(5).

“Drinking Water Revolving Fund” means the fund established by A.R.S. § 49-1241.

“EA” means an environmental assessment.

“EID” means an environmental information document.

“EIS” means an environmental impact statement.

“EPA” means the United States Environmental Protection Agency.

“Executive director” means the executive director of the Water Infrastructure Finance Authority of Arizona.

“Federal capitalization grant” means the assistance agreement by which the EPA obligates and awards funds allotted to the Authority for purposes of capitalizing the Clean Water Revolving Fund and the Drinking Water Revolving Fund.

“Financial assistance” means the use of monies for any of the purposes identified in R18-15-102(B).

“Financial assistance agreement” means any agreement that defines the terms for financial assistance provided according to this Chapter.

“FONSI” means a finding of no significant impact.

“Fundable range” means a subset of the project priority list that demarcates the ranked projects which have been determined to be ready to proceed and will be provided with a project finance application.

“Governmental unit” means a political subdivision or Indian tribe that may receive technical or financial assistance from the Authority pursuant to A.R.S. § 49-1203.

“Impaired water” means a navigable water for which credible scientific data exists that satisfies the requirements of A.R.S. § 49-232 and that demonstrates that the water should be identified pursuant to 33 U.S.C. 1313(d) and the regulations implementing that statute.

“Intended Use Plan” means the document prepared by the Authority identifying the intended uses of Clean Water Revolving Fund and Drinking Water Revolving Fund federal capitalization grants according to R18-15-202 and R18-15-302, ~~the intended uses of the Water Supply Development Revolving Fund according to R18-15-402,~~ and the intended uses of funds for technical assistance according to R18-15-502.

“Master priority list” means the master priority list for Capacity Development developed by the Arizona Department of Environmental Quality under A.A.C. R18-4-803, which ranks public water systems according to their need for technical assistance.

“Onsite system” means a conventional septic tank system or alternative system that is installed at a site to treat and dispose of wastewater of predominantly human origin that is generated at that site.

“Planning and design assistance ~~grant~~” means a technical assistance ~~grant~~ that provides for the use of monies for a specific water facility, wastewater treatment facility, or water supply delivery system for planning or design to facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water project, wastewater project, or water supply development project.

“Planning and design assistance ~~grant~~ agreement” means any agreement that defines the terms for a technical assistance ~~grant~~ provided according to Article 5 of this Chapter.

“~~Grant~~ Planning and design technical assistance applicant” means a governmental unit, a nonpoint source project sponsor, a drinking water facility, or a water provider that is seeking a planning and design assistance ~~grant~~ from the Authority under the provisions of this Chapter.

“~~Grant~~ Planning and design technical assistance application” means a request for a planning and design assistance ~~grant~~ submitted to the Board ~~or Committee~~ by a an ~~grant~~ applicant in a format prescribed by the Authority.

“Planning and design loan repayment agreement” means the same as technical assistance loan repayment agreement and has the meaning at A.R.S. ~~§ 49-1201(12)~~ § 49-1201(11).

~~“Priority value” means the total points a project received during the evaluation of its project priority list application.~~

“Professional assistance” means the use of monies by or on behalf of the Authority to conduct research, conduct studies, conduct surveys, develop guidance, and perform related activities that benefit more than one water or wastewater treatment facility.



“Project” means any distinguishable segment or segments of a wastewater treatment facility, drinking water facility, water supply delivery system, or nonpoint source pollution control that can be bid separately and for which financial or technical assistance is being requested or provided.

“Project priority list” means the document developed by the Board ~~or Committee~~ according to R18-15-203, ~~or R18-15-303, or R18-15-403~~ that ranks projects according to R18-15-204, ~~or R18-15-304, or R18-15-404~~.

“Recipient” means an applicant who has entered into a financial assistance agreement or planning and design assistance ~~grant~~ agreement with the Authority.

“ROD” means a record of decision.

“Staff assistance” means the use of monies for a specific water or wastewater treatment facility to assist that system to improve its operations or assist a specific water provider with a water supply delivery system. For water providers, staff assistance is limited to planning and design of water supply development projects according to A.R.S. § 49-1203(B)(17).

“Technical assistance” means assistance provided by the Authority in the form of staff assistance, professional assistance and planning and design assistance ~~grants~~.

“Wastewater treatment facility” has the same meaning as prescribed in A.R.S. ~~§ 49-1201(13)~~ § 49-1201(12).

“Water provider” has the same meaning as prescribed in A.R.S. ~~§ 49-1201(14)~~ § 49-1201(13).

“Water supply development” has the same meaning as prescribed in A.R.S. ~~§ 49-1201(15)~~ § 49-1201(14).

“Water Supply Development Revolving Fund” means the fund established by A.R.S. § 49-1271.

#### **R18-15-102. Types of Assistance Available**

- A. The Authority may provide financial and technical assistance under the following programs if the Board ~~or Committee, as applicable,~~ determines funding is available:
1. Clean Water Revolving Fund Program and Clean Water Technical Assistance Program,
  2. Drinking Water Revolving Fund Program and Drinking Water Technical Assistance Program,
  3. Water Supply Development Revolving Fund Program and Water Supply Development Technical Assistance Program, and
  4. Hardship Grant Fund Program.
- B. Financial assistance available from the Authority includes any of the following:
1. Financial assistance loan repayment agreements;
  2. ~~Planning and design loan repayment agreements in accordance with A.R.S. § 49-1203(16) and (17);~~
  - 3-2. The purchase or refinance of local debt obligations;
  - 4-3. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
  - 5-4. Short-term emergency loan agreements in accordance with A.R.S. § 49-1269; and
  - 6-5. Providing linked deposit guarantees through third-party lenders as authorized by A.R.S. §§ 49-1223(A)(6), 49-1243(A)(6), and 49-1273(A)(6).
- C. Technical assistance available from the Authority includes planning and design assistance ~~grants~~, staff assistance, and professional assistance. Technical assistance may be offered at the Board’s ~~or Committee’s~~ discretion ~~and shall be identified in the annual Technical Assistance Intended Use Plan as described in R18-15-502.~~

#### **R18-15-103. Application Process**

- A. An applicant requesting assistance shall apply to the Authority for ~~each type of the~~ financial or technical assistance described in R18-15-102 on forms provided by the Authority.
- B. An applicant seeking financial assistance through the Clean Water Revolving Fund Program shall apply for financial assistance according to Articles 1 and 2 of this Chapter.
- C. An applicant seeking financial assistance through the Drinking Water Revolving Fund Program shall apply for financial assistance according to Articles 1 and 3 of this Chapter.
- D. An applicant seeking financial assistance through the Water Supply Development Revolving Fund Program shall apply for financial assistance according to Articles 1 and 4 of this Chapter.
- E. An applicant seeking technical assistance available through the technical assistance programs shall apply for technical assistance according to Articles 1 and 5 of this Chapter.
- F. An applicant shall mark any confidential information with the words “confidential information” on each page of the material containing such information. A claim of confidential information may be asserted for a trade secret or information that, upon disclosure, would harm a person’s competitive advantage. The Authority shall not disclose any information determined confidential. Upon receipt of a claim of confidential information, the Authority shall make one of the following written determinations:
1. The designated information is confidential and the Authority shall not disclose the information except to those individuals deemed by the Authority to have a legitimate interest.
  2. The designated information is not confidential.
  3. Additional information is required before a final confidentiality determination can be made.

#### **R18-15-104. General Financial Assistance Application Requirements**

- A. The applicant shall provide in the financial assistance application the information in subsections (B), (C), (D), and (E).
- B. The applicant shall demonstrate the applicant is legally authorized to ~~enter into~~ apply for long-term indebtedness, and is legally authorized to ~~pledge~~ declare its intent to obligate a dedicated revenue source for repayment under subsection (C).
1. If the applicant is a political subdivision and the long-term indebtedness is authorized through an election, the applicant shall provide all of the following:
    - a. One copy of the sample election ballot and election pamphlet, if applicable,
    - b. One copy of the governing body resolution calling for the election, and



- c. Official evidence of the election results following the election.
- 2. If the applicant is a political subdivision and the long-term indebtedness is not required by law to be authorized through an election, the applicant shall provide one copy of the approved governing body resolution authorizing the application for long-term indebtedness and an identification of the dedicated revenue source.
- 3. If the applicant is a political subdivision and the long-term indebtedness is authorized through a special taxing district creation process, the applicant shall provide one copy of ~~at~~ the final documentation, notices, petitions, and related information authorizing the long-term indebtedness.
- 4. If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide evidence that the financial assistance from the Authority to the applicant is authorized by the Arizona Corporation Commission.
- 5. All other applicants shall demonstrate that a majority of the beneficiaries consent to ~~the terms and conditions of the~~ apply to WIFA for financial assistance. The Authority shall assist each applicant to devise a process by which this consent is documented.
- C. The applicant shall identify a dedicated revenue source for repayment of the financial assistance and demonstrate that the dedicated revenue source is sufficient to repay the financial assistance.
  - 1. The applicant shall provide the following information:
    - a. Amount of the financial assistance requested;
    - b. One copy of each financial statement, audit, or comprehensive financial statement from at least the previous three ~~fiscal years~~ financial operating years (fiscal or calendar);
    - c. One copy of each budget, business plan, management plan, or financial plan from the ~~previous and current fiscal years~~ financial operating years (fiscal or calendar);
    - d. One copy of the proposed budget, business plan, management plan, or financial plan for the next ~~fiscal year~~ financial operating year (fiscal or calendar);
    - e. ~~A projection of revenue anticipated to be collected over the next five fiscal years from the dedicated revenue source for repayment;~~
    - f. ~~A summary~~ Documentation of current rates and fees for drinking or wastewater services including, as applicable, any resolutions related to rates and fees passed by the governing body of a political subdivision; and
    - g. Copies of documentation relating to outstanding indebtedness pledged to the dedicated source for repayment, including official statements, financial assistance agreements, and amortization schedules.
  - 2. If any of the required information listed in subsection (C)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's financial capability.
  - 3. The Authority may ask for additional financial information as necessary to evaluate the applicant's financial capability.
- D. The applicant shall demonstrate the applicant is technically capable to construct, operate, and maintain the proposed project.
  - 1. The applicant shall provide the following information:
    - a. An estimate of the project costs in as much detail as possible, including an estimate of applicable planning, design, construction, and material costs;
    - b. The number of connections to be served by the proposed project;
    - c. The most recent version of the applicant's capital improvement plan or other plan explaining proposed infrastructure investments;
    - d. One copy of each feasibility study, engineering report, design memorandum, set of plans and specifications, and other technical documentation related to the proposed project and determined applicable by the Authority for the stage of project completion;
    - e. ~~Copies of resumes, biographies,~~ Biographies or related information of the certified operators, system employees, or contractors employed by the applicant to operate and maintain the existing facilities and the proposed project;
    - f. A description of the service area, including maps; and
    - g. A description of the existing physical facilities.
  - 2. The Authority may ask for additional information as necessary to evaluate the applicant's technical capability.
- E. The applicant shall demonstrate the applicant is capable ~~to manage~~ of managing the system and the proposed project.
  - 1. The applicant shall provide the following information:
    - a. Years of experience and related information regarding the owners, managers, chief elected officials, and governing body members of the applicant; and
    - b. A list of professional and outside services retained by the applicant ~~and the proposed project.~~
  - 2. If any of the required information listed in subsection (E)(1) is not available, the Authority may assist the applicant in determining alternative documentation to support the applicant's managerial capability.
  - 3. The Authority may ask for additional information as necessary to evaluate the applicant's managerial capability.

**R18-15-105. General Financial Assistance Conditions**

- A. The Authority shall not execute a financial assistance agreement with an applicant until the applicant provides all documentation specified by the Authority ~~and the requirements of R18-15-106 are met. Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of R18-15-106. For planning and design loans that include an environmental information document or an environmental impact statement, the Authority may execute a financial assistance agreement with an applicant prior to the completion of the conditions of R18-15-106, provided that the applicant meets the requirements of R18-15-106 before proceeding with the design of the selected alternative.~~
- B. The documentation required prior to execution of the financial assistance agreement shall at a minimum include:
  - 1. ~~One~~ If there is a governing body, one copy of the governing body resolution approving the execution of the financial assistance agreement,
  - 2. A project budget, and
  - 3. An estimated disbursement schedule.
- C. The financial assistance agreement between the recipient and the Authority shall at a minimum specify:



1. Rates of interest, fees, and any costs as determined by the Authority;
  2. Project details;
  3. The maximum amount of principal and interest due on any payment date;
  4. Debt service coverage requirements;
  5. Reporting requirements;
  6. Debt service reserve fund and repair and replacement reserve fund requirements;
  7. The dedicated source for repayment and pledge;
  8. The requirement that the recipient comply with applicable federal, state and local laws;
  9. A schedule for repayment; and
  10. Any other agreed-upon conditions.
- D. The Authority may require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.
- E. The recipient shall maintain the project account in accordance with generally accepted government accounting standards. After reasonable notice by the Authority, the recipient shall make available any project records reasonably required to determine compliance with the provisions of this Chapter and the financial assistance agreement.
- F. The Authority shall release loan proceeds subject to a disbursement request if the request is consistent with the financial assistance agreement and the disbursement schedule.
1. The applicant shall submit each disbursement request on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant provides a completed disbursement form.
  2. The applicant shall include copies of invoices, ~~cancelled checks~~, or other documents that show proof of eligible costs incurred with each disbursement request.
- G. The recipient shall make repayments according to an agreed-upon schedule in the financial assistance agreement. The Authority may charge a late fee for any loan repayment not paid when due. The Authority may refer any loan repayment past due to the Office of the Attorney General for appropriate action.

#### **R18-15-106. Environmental Review**

- A. The Authority shall conduct an environmental review according to this Section for impacts of the design or construction of water infrastructure. ~~Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of R18-15-106.~~ As part of the application process, the Authority shall request information from the applicant to conduct an environmental review consistent with 40 CFR 35.3140 and 40 CFR 35.3580. The Authority shall determine whether the project meets the criteria for categorical exclusion under subsections (B) and (C), or whether the project requires the preparation of an environmental assessment (EA) or an environmental impact statement (EIS) to identify and evaluate its environmental impacts.
1. The Authority shall not execute a technical or financial assistance agreement with an applicant until the requirements of this section are met. For projects that include an environmental information document or an environmental impact statement, the Authority may execute a technical or financial assistance agreement with an applicant prior to the completion of the conditions of this section, provided that the applicant meets the requirements of this section before proceeding with the design of the selected alternative.
  2. Projects under the Water Supply Development Revolving Fund Program are not subject to the requirements of this section.
- B. A project may be categorically excluded from environmental review if the project fits within a category that is eligible for exclusion and the project does not involve any of the extraordinary circumstances listed in subsection (C). If, based on the application and other information submitted by the applicant, the Authority determines that a categorical exclusion from an environmental review is warranted, the project is exempt from the requirements of this Section, except for the public notice and participation requirements in subsection (J). The Authority may issue a categorical exclusion if information and documents demonstrate that the project qualifies under one or more of the following categories:
1. Any project relating to existing infrastructure systems that involves minor upgrading, minor expansion of system capacity, rehabilitation (including functional replacement) of the existing system and system components, or construction of new minor ancillary facilities adjacent to or on the same property as existing facilities. This category does not include projects that:
    - a. Involve new or relocated discharges to surface water or groundwater,
    - b. Will likely result in the substantial increase in the volume or the loading of pollutant to the receiving water,
    - c. Will provide capacity to serve a population 30% greater than the existing population,
    - d. Are not supported by the state or other regional growth plan or strategy, or
    - e. Directly or indirectly involve or relate to upgrading or extending infrastructure systems primarily for the purposes of future development.
  2. Any clean water project in unsewered communities involving the replacement of existing onsite systems, providing the new onsite systems do not result in substantial increases in the volume of discharge or the loadings of pollutants from existing sources, or relocate an existing discharge.
- C. The Authority shall deny a categorical exclusion if any of the following extraordinary circumstances apply to the project:
1. The project is known or expected to have potentially significant adverse environmental impacts on the quality of the human environment either individually or cumulatively over time.
  2. The project is known or expected to have disproportionately high and adverse human health or environmental effects on any community, including minority communities, low-income communities, or federally-recognized Indian tribal communities.
  3. The project is known or expected to significantly affect federally listed threatened or endangered species or their critical habitat.
  4. The project is known or expected to significantly affect national natural landmarks or any property with nationally significant historic, architectural, prehistoric, archaeological, or cultural value, including but not limited to, property listed on or eligible for the Arizona or National Registers of Historic Places.
  5. The project is known or expected to significantly affect environmentally important natural resource areas such as wetlands, floodplains, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.



6. The project is known or expected to cause significant adverse air quality effects.
  7. The project is known or expected to have a significant effect on the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas, or may not be consistent with state or local government, or federally-recognized Indian tribe approved land use or federal land management plans.
  8. The project is known or expected to cause significant public controversy about a potential environmental impact of the proposed action.
  9. The project is known or expected to be associated with providing financial assistance to a federal agency through an interagency agreement for a project that is known or expected to have potentially significant environmental impacts.
  10. The project is known or expected to conflict with federal, state, or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws or regulations.
- D.** If the Authority denies the categorical exclusion under subsection (C), the Authority shall conduct an EA according to subsection (E), unless the Authority decides to prepare an EIS according to subsections (F) and (G) without first undertaking an EA. If the Authority conducts an EA, the applicant shall:
1. Prepare an environmental information document (EID) in a format prescribed by the Authority. The EID shall be of sufficient scope to undertake an environmental review and to allow development of an EA under subsection (E); or
  2. Provide documentation, upon Authority approval, in another format if the documentation is of sufficient scope to allow the development of an EA under subsection (E).
- E.** The Authority shall conduct the EA that includes:
1. A brief discussion of:
    - a. The need for the project;
    - b. The alternatives, including a no action alternative;
    - c. The affected environment, including baseline conditions that may be impacted by the project and alternatives;
    - d. The environmental impacts of the project and alternatives, including any unresolved conflicts concerning alternative uses of available resources; and
    - e. Other applicable environmental laws.
  2. A listing or summary of any coordination or consultation undertaken with any federal agency, state or local government, or federally-recognized Indian tribe regarding compliance with applicable laws and executive orders;
  3. Identification and description of any mitigation measures considered, including any mitigation measures that must be adopted to ensure the project will not have significant impacts; and
  4. Incorporation of documents by reference, if appropriate, including the EID.
- F.** Upon completion of the EA required by subsection (E), the Authority shall determine whether an environmental impact statement (EIS) is necessary.
1. The Authority shall prepare or direct the applicant to prepare an EIS in the manner prescribed in subsection (G) if any of the following conditions exist.
    - a. The project would result in a discharge of treated effluent from a new or modified existing facility into a body of water and the discharge is likely to have a significant effect on the quality of the receiving water.
    - b. The project is likely to directly, or through induced development, have significant adverse effect upon local ambient air quality or local ambient noise levels.
    - c. The project is likely to have significant adverse effects on surface water reservoirs or navigation projects.
    - d. The project would be inconsistent with state or local government, or federally-recognized Indian tribe approved land use plans or regulations, or federal land management plans.
    - e. The project would be inconsistent with state or local government, or federally-recognized Indian tribe environmental, resource-protection, or land-use laws and regulations for the protection of the environment.
    - f. The project is likely to significantly affect the environment through the release of radioactive, hazardous, or toxic substances, or biota.
    - g. The project involves uncertain environmental effects or highly unique environmental risks that are likely to be significant.
    - h. The project is likely to significantly affect national natural landmarks or any property on or eligible for the Arizona or National Registers of Historic Places.
    - i. The project is likely to significantly affect environmentally important natural resources such as wetlands, significant agricultural lands, aquifer recharge zones, wild and scenic rivers, and significant fish or wildlife habitat.
    - j. The project in conjunction with related federal, state, or local government, or federally-recognized Indian tribe projects is likely to produce significant cumulative impacts.
    - k. The project is likely to significantly affect the pattern and type of land use or growth and distribution of population, including altering the character of existing residential areas.
      - l. The project is a new regional wastewater treatment facility or water supply system for a community with a population greater than 100,000.
      - m. The project is an expansion of an existing wastewater treatment facility that will increase existing discharge to an impaired water by more than 10 million gallons per day (mgd).
  2. The Authority may issue a finding of no significant impact (FONSI) if the EA supports the finding that the project will not have a significant impact on the environment. The FONSI shall include the submitted EA and a brief description of the project, alternatives considered, and project impacts. The FONSI must also include any commitments to mitigation that are essential to render the impacts of the project not significant. The Authority shall issue the FONSI for public comment in accordance with subsection (J).
- G.** The Authority shall prepare or direct the applicant to prepare an EIS required by subsection (F)(1) when the project will significantly impact the environment, including any project for which the EA analysis demonstrates that significant impacts will occur and not be reduced or eliminated by changes to, or mitigation of, the project. The Authority shall perform the following actions:



1. As soon as practicable after its decision to prepare an EIS and before the scoping process, the Authority shall prepare a notice of intent. The notice of intent shall briefly describe the project and possible alternatives and the proposed scoping process. The Authority shall distribute the notice of intent to affected federal, state, and local agencies, any affected Indian tribe, the applicant, and other interested parties. The Authority shall issue the notice of intent for public comment in accordance with subsection (J)(3).
  2. As soon as possible after the distribution and publication of the notice of intent required by subsection (G)(1), the Authority shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the applicant, and other interested parties. At the meeting, the parties attending the meeting shall determine the scope of the EIS by considering a number of factors, including all of the following:
    - a. The significant issues to be analyzed in depth in the EIS,
    - b. The preliminary range of alternatives to be considered,
    - c. The potential cooperating agencies and information or analyses that may be needed from cooperating agencies or other parties, and
    - d. The method for EIS preparation and the public participation strategy.
  3. Upon completion of the process described in subsection (G)(2), the Authority shall identify and evaluate all potentially viable alternatives to adequately address the range of issues identified. Additional issues also may be addressed, or others eliminated, and the reasons documented as part of the EIS.
  4. After the analysis of issues is conducted according to subsection (G)(3), the Authority shall issue a draft EIS for public comment according to subsection (J)(4).
  5. Following public comment according to subsection (J), the Authority shall prepare a final EIS, consisting of all of the following:
    - a. The draft EIS.
    - b. An analysis of all reasonable alternatives and the no action alternative;
    - c. A summary of any coordination or consultation undertaken with any federal, state, or local government, or federally-recognized Indian tribe;
    - d. A summary of the public participation process;
    - e. Comments received on the draft EIS;
    - f. A list of persons commenting on the draft EIS;
    - g. The Authority's responses to significant comments received;
    - h. A determination of consistency with the Certified Water Quality Management Plan, if applicable;
    - i. The names and qualifications of the persons primarily responsible for preparing the EIS; and
    - j. Any other information added by the Authority.
  6. The Authority shall prepare or direct the applicant to prepare a supplemental EIS when appropriate, including when substantial changes are made to the project that are relevant to environmental concerns, or when there are significant new circumstances or information relevant to environmental concerns bearing on the project.
- H.** After issuance of a final EIS under subsection (G)(5), the Authority shall prepare and issue a record of decision (ROD) containing the Authority's decision whether to proceed or not proceed with a project. A ROD issued with a decision to proceed shall include a brief description of the project, alternatives considered, and project impacts. In addition, the ROD must include any commitments to mitigation, an explanation if the environmental preferred alternative was not selected, and any responses to substantive comments on the final EIS. A ROD issued with a decision not to proceed shall preclude the project from receiving financial assistance under this Article.
- I.** For all determinations (categorical exclusions, FONSI, or RODs) that are five years old or older and for which the project has not been implemented, the Authority shall re-evaluate the project, environmental conditions, and public views to determine whether to conduct a supplemental environmental review of the project and complete an appropriate environmental review document or reaffirm the Authority's original determination. The Authority shall provide public notice of the re-evaluation according to subsection (J)(5).
- J.** The Authority shall conduct public notice and participation under this Section as follows:
1. If a categorical exclusion is granted under subsection (B), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.
  2. If a FONSI is issued under subsection (F)(2), the Authority shall provide public notice that the FONSI is available for public review by publishing the notice as a legal notice at least once in one or more newspapers of general circulation in the county or counties concerned. The notice shall provide that comments on the FONSI may be submitted to the Authority for a period of 30 days from the date of publication of the notice. If no comments are received, the FONSI shall immediately become effective. The Authority may proceed with the project subject to any mitigation measures described in the FONSI after responding to any substantive comments received on the FONSI during the 30-day comment period, or 30 days after issuance of the FONSI if no substantive comments are received.
  3. If a notice of intent is prepared and distributed under subsection (G)(1), the Authority shall publish it as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.
  4. If a draft EIS is issued under subsection (G)(4), the Authority shall provide public notice by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned, that the draft EIS is available for public review. The notice shall provide that comments on the draft EIS may be submitted to the Authority for a period of 45 days from the date of publication of the notice. When the Authority determines that a project may be controversial, the notice shall provide for a general public hearing to receive public comments.
  5. If the Authority reaffirms or revises a decision according to subsection (I), the Authority shall provide public notice of that fact by publishing the notice as a legal notice at least once, in one or more newspapers of general circulation in the county or counties concerned.



**R18-15-107. Disputes**

- A. Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under this Chapter, excluding actions taken under R18-15-503, R18-15-504, and R18-15-505, may file a formal letter of dispute with the executive director according to subsections (B), (C), (D), and (E). Any interested party having a substantial financial interest in or suffering a substantial adverse financial impact from an action taken under R18-15-503, R18-15-504 or R18-15-505 shall proceed under R18-15-503(H), R18-15-504(H) or R18-15-505(H), as applicable.
- B. The interested party shall file the formal letter of dispute with the executive director within 30 days of the action and provide a copy to each member of the Board ~~or Committee~~. The formal letter of dispute shall include the following information:
  - 1. The name, address, and telephone number of the interested party;
  - 2. The signature of the interested party or the interested party's representative;
  - 3. A detailed statement of the legal and factual grounds of the dispute including:
    - a. Copies of relevant documents, and
    - b. The nature of the substantial financial interest or the nature of the substantial adverse financial impact of the interested party; and
  - 4. The form of relief requested.
- C. Within 30 days of receipt of a dispute letter, the Authority shall issue a preliminary decision in writing, to be forwarded by certified mail to the party.
- D. Any party filing a dispute under subsection (B) that disagrees with a preliminary decision of the Authority may file a formal letter of appeal, explaining why the party disagrees with the preliminary decision, with the Board, provided the letter is received by the executive director not more than 15 days after the receipt by the party of the preliminary decision.
- E. The Board shall issue a final decision on issues appealed under subsection (D) not more than 60 days after receipt of the formal letter of appeal.

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

**R18-15-201. Clean Water Revolving Fund Financial Assistance Eligibility Criteria**

To ~~be eligible to~~ receive financial assistance from the Clean Water Revolving Fund, the applicant shall demonstrate the applicant is ~~a governmental unit requesting~~ eligible under A.R.S. § 49-1224(A) to request financial assistance for a purpose as defined in A.R.S. § 49-1223(A); the proposed project is to design, construct, acquire, improve, or refinance a publicly owned wastewater treatment facility, or for any other purpose permitted by the Clean Water Act including nonpoint source projects; and the proposed project appears on the Clean Water Revolving Fund Project Priority List developed under R18-15-203.

**R18-15-203. Clean Water Revolving Fund Project Priority List**

- A. The Authority annually shall prepare a Clean Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-202. The Board may waive the requirement to develop a Clean Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.
- B. An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Clean Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Clean Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Clean Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-204(A), by which the project will be evaluated and the relative importance of each of the criterion.
- C. In preparing the Clean Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B), ~~all projects requested by regulatory authorities, and all plans prepared according to the Clean Water Act, 33 U.S.C. 1251 to 1387.~~ The Authority shall evaluate the merits of each project with respect to water quality issues and determine the ~~priority value~~ total points of each project according to R18-15-204. At a minimum, the Clean Water Revolving Fund Project Priority List shall identify:
  - 1. The applicant,
  - 2. Project title,
  - 3. Type of project,
  - 4. The amount requested for financial assistance,
  - 5. The subsidy ~~rate index~~ according to R18-15-204(C),
  - 6. Whether the project is within the fundable range according to R18-15-205, and
  - 7. The rank of each project by ~~the priority value~~ its total points, determined according to R18-15-204.
- D. After adoption of the annual Intended Use Plan and project priority list according to R18-15-202, the Board may allow:
  - 1. Updates and corrections to the adopted Clean Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after ~~an opportunity for public comment at a public meeting~~ public notice; or
  - 2. Additions to the Clean Water Revolving Fund Project Priority List, if the additions are adopted by the Board after ~~an opportunity for public comment at a public meeting~~ public notice.
- E. After ~~an opportunity for public comment at a public meeting~~ public notice, the Board may remove a project from the Clean Water Revolving Fund Project Priority List under one or more of the following circumstances:
  - 1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
  - 2. The project was financed ~~with long-term indebtedness~~ from another source;
  - 3. The project is no longer an eligible project;
  - 4. The applicant requests removal;
  - 5. The applicant is no longer an eligible applicant; or





6. The applicant did not update, modify, correct or resubmit a project ~~that remained on~~ from the project priority list ~~for more than 365 days developed for the previous funding cycle.~~

**R18-15-204. Clean Water Revolving Fund Project Priority List Ranking**

- A. The Authority shall rank each project on the Clean Water Revolving Fund Project Priority List based on the ~~priority value~~ total points of each project. The Authority shall consider the following categories to determine the ~~priority value~~ total points of each project:
1. The Authority shall evaluate the current conditions of the project, including existing environmental, structural, and regulatory integrity and the degree to which the project is consistent with the Clean Water Act, 33 U.S.C. 1251 to 1387.
  2. The Authority shall evaluate the degree to which the project improves or protects water quality.
  3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
  4. The Authority shall evaluate the degree to which the project promotes any of the following:
    - a. Consolidation of facilities, operations, and ownership;
    - b. Extending service to existing areas currently served by another facility; or
    - c. A regional approach to operations, management, or new facilities.
  5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
  6. The Authority shall evaluate the applicant's local fiscal capacity.
- B. ~~If two or more projects have the same rank according to subsection (A),~~ Two or more projects may receive the same total points. If sufficient clean water revolving loan funds are not available to fund the projects, the Authority shall give priority to the project with the highest current condition ~~value score~~ value score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water quality improvement ~~value score~~ value score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same ~~priority value~~ total points, the Board shall determine the priority of the tied projects.
- C. The Authority shall determine the subsidy ~~rate index~~ rate index for each project on the Clean Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity ~~value score~~ value score under subsection (A)(6) and the ~~overall priority value~~ total points of the project. The Authority shall incorporate the subsidy ~~rate index~~ rate index in the financial assistance agreement.

**R18-15-205. Clean Water Revolving Fund Fundable Range for Financial Assistance**

- A. Prior to adoption by the Board of the Clean Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B. In determining the fundable range, the Authority shall evaluate each project for evidence ~~that the project is ready to proceed of debt authorization according to R18-15-104(B).~~ The Authority shall consider the following indicators when evaluating whether the project is within the fundable range:
1. ~~Evidence of debt authorization according to R18-15-104(B);~~
  2. ~~Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;~~
  3. ~~Evidence of approval by the appropriate authority of project plans and specifications; and~~
  4. ~~Evidence that the applicant has initiated the bid or solicitation process.~~

**R18-15-206. Clean Water Revolving Fund Application for Financial Assistance**

- A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Clean Water Revolving Fund Project Priority List and is determined to be in the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Clean Water Revolving Fund Project Priority List and in the fundable range.
- B. The Authority shall not ~~forward present~~ present an application to the Board for consideration until all the following conditions are met:
1. The project is on the Clean Water Revolving Fund Project Priority List, including the Project Priority List to be adopted at the Board meeting;
  2. The applicant has provided supporting documentation according to R18-15-205(B);
  3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability as described in R18-15-104;
  4. For nonpoint source projects, the applicant has provided evidence that the project is consistent with Section 319 and Title VI of the Clean Water Act, 33 U.S.C. 1329, 1381 to 1387; and
  5. ~~The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities; and~~
  6. The proposed project is consistent with the Certified Water Quality Management Plan.
- C. The application criteria required under subsections (A) and (B) shall not apply to financial assistance requests for short-term emergency loans under A.R.S. § 49-1269.

**R18-15-207. Clean Water Revolving Fund Application Review for Financial Assistance**

- A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. The analysis shall at a minimum include:
1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  2. A summary of the applicant's legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant's technical capability including its ability to construct, operate, and maintain the proposed project;
  4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant's financial capability, including:



- a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three ~~fiscal years~~ financial operating years (fiscal or calendar),
  - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current ~~fiscal year~~ financial operating year (fiscal or calendar), and
  - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five ~~fiscal years~~ financial operating years (fiscal or calendar);
  - 6. The applicant’s history of compliance with, as applicable, the Clean Water Act, 33 U.S.C. 1251 to 1387, related Arizona statutes, and related rules, regulations, and policies; and
  - 7. A summary of any previous assistance provided by the Authority to the applicant.
- B.** ~~After an opportunity for public comment, the~~ Board shall make a determination regarding the applicant’s request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board’s determination, which may include recommended modifications to any of the following:
- 1. The proposed project,
  - 2. The applicant’s legal structure and organization,
  - 3. The dedicated revenue source for repayment, or
  - 4. The structure of the financial assistance request.
- C.** If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Clean Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Clean Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D.** Upon Board approval of the applicant’s request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

**R18-15-303. Drinking Water Revolving Fund Project Priority List**

- A.** The Authority annually shall prepare a Drinking Water Revolving Fund Project Priority List as part of the Intended Use Plan described in R18-15-302. The Board may waive the requirement to develop an annual Drinking Water Revolving Fund Project Priority List if funds are not adequate to assist any projects or if the Board determines that no financial assistance will be offered for the annual funding cycle.
- B.** An applicant pursuing financial assistance from the Authority for a project shall request to have the project included on the Drinking Water Revolving Fund Project Priority List. The applicant may request that multiple projects be placed on the Drinking Water Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Drinking Water Revolving Fund Project Priority List on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in R18-15-304(A) by which the project will be evaluated and the relative importance of each of the criterion.
- C.** In preparing the Drinking Water Revolving Fund Project Priority List, the Authority shall consider all project priority list applications submitted under subsection (B), ~~all projects requested by regulatory authorities, and all plans prepared under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26.~~ The Authority shall evaluate the merits of each project with respect to water quality issues and determine the ~~priority value~~ total points of each project according to R18-15-304. At a minimum, the Drinking Water Revolving Fund Project Priority List shall identify:
- 1. The applicant;
  - 2. Project title;
  - 3. Type of project;
  - 4. Population of service area;
  - 5. The amount requested for financial assistance;
  - 6. The subsidy ~~rate index~~ according to R18-15-304(C);
  - 7. Whether the project is within the fundable range according to R18-15-305; and
  - 8. The rank of each project by ~~the priority value~~ its total points, determined according to R18-15-304.
- D.** After adoption of the annual Intended Use Plan and project priority list according to R18-15-302, the Board may allow:
- 1. Updates and corrections to the adopted Drinking Water Revolving Fund Project Priority List, if the updates and corrections are adopted by the Board after ~~an opportunity for public comment at a public meeting~~ public notice; or
  - 2. Additions to the Drinking Water Revolving Fund Project Priority List, if the additions are adopted by the Board after ~~an opportunity for public comment at a public meeting~~ public notice.
- E.** After ~~an opportunity for public comment at a public meeting~~ public notice, the Board may remove a project from the Drinking Water Revolving Fund Project Priority List under one or more of the following circumstances:
- 1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
  - 2. The project was financed ~~with long-term indebtedness~~ from another source;
  - 3. The project is no longer an eligible project;
  - 4. The applicant requests removal;
  - 5. The applicant is no longer an eligible applicant; or
  - 6. The applicant did not update, modify, correct or resubmit a project ~~that remained on~~ from the project priority list ~~for more than 365 days~~ developed for the previous funding cycle.

**R18-15-304. Drinking Water Revolving Fund Project Priority List Ranking**

- A. The Authority shall rank each project listed on the Drinking Water Revolving Fund Project Priority List based on the ~~priority value~~ total points of each project. The Authority shall consider the following categories to determine the ~~priority value~~ total points of each project:
1. The Authority shall evaluate the current conditions of the system through the system's ~~rank scores~~ on the Department's master priority list.
  2. The Authority shall evaluate the degree to which the project will result in improvement to the water system.
  3. The Authority shall evaluate the degree to which the project addresses water or energy efficiency or environmentally innovative approaches.
  4. The Authority shall evaluate the degree to which the project promotes any of the following:
    - a. Consolidation of facilities, operations, and ownership;
    - b. Extending service to existing areas currently served by another facility; or
    - c. A regional approach to operations, management, or new facilities.
  5. The Authority shall determine whether the project received assistance from the Authority in a previous funding cycle.
  6. The Authority shall evaluate the applicant's local fiscal capacity.
- B. ~~If two or more projects have the same rank according to subsection (A),~~ Two or more projects may receive the same total points. If sufficient clean water revolving loan funds are not available to fund the projects, the Authority shall give priority to the project with the highest current condition ~~value score~~ value score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water system improvement ~~value score~~ value score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (6), sequentially. If projects continue to have the same ~~priority value~~ total points, the Board shall determine the priority of the tied projects.
- C. The Authority shall determine the subsidy ~~rate index~~ rate index for each project on the Drinking Water Revolving Fund Project Priority List based on the applicant's local fiscal capacity ~~value score~~ value score and the ~~overall priority value~~ total points of the project. The Authority shall incorporate the subsidy ~~rate index~~ rate index in the financial assistance agreement.

**R18-15-305. Drinking Water Revolving Fund Fundable Range for Financial Assistance**

- A. Prior to adoption by the Board of the Drinking Water Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.
- B. In determining the fundable range the Authority shall evaluate each project for evidence ~~that the project is ready to proceed. The Authority shall consider the following indicators when evaluating whether the project is within the fundable range:~~
- ~~1. Evidence of debt authorization according to R18-15-104(B);~~
  - ~~2. Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;~~
  - ~~3. Evidence of approval by the appropriate authority of project plans and specifications; and~~
  - ~~4. Evidence that the applicant has initiated the bid or solicitation process.~~

**R18-15-306. Drinking Water Revolving Fund Application for Financial Assistance**

- A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Drinking Water Revolving Fund Project Priority List and is determined to be within the fundable range. At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a Board-adopted Drinking Water Revolving Fund Project Priority List.
- B. The Authority shall not ~~forward present~~ forward present an application to the Board for consideration until all the following conditions are met:
1. The project is on the Drinking Water Revolving Fund Project Priority List, ~~including the Project Priority List to be adopted at the Board meeting;~~
  2. The applicant has provided supporting documentation according to R18-15-305(B); ~~and~~
  3. The applicant has demonstrated legal capability, financial capability, technical capability and managerial capability as described in R18-15-104; ~~and~~
  4. ~~The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities.~~
- C. The application criteria required under subsections (A) and (B) shall not apply to financial assistance requests for short-term emergency loans under A.R.S. § 49-1269.

**R18-15-307. Drinking Water Revolving Fund Application Review for Financial Assistance**

- A. The Authority shall evaluate and summarize each application received and develop an analysis that provides recommendations to the Board. At a minimum, the analysis shall include:
1. The scope, size, and budget of the proposed project, including as much cost detail as possible;
  2. A summary of the applicant's legal capability, including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant's technical capability, including its ability to construct, operate, and maintain the proposed project;
  4. A summary of the applicant's managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant's financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three ~~fiscal years~~ financial operating years (fiscal or calendar);
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current ~~fiscal year~~ financial operating year (fiscal or calendar), and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five ~~fiscal years~~ financial operating years (fiscal or calendar);



- 6. The applicant’s history of compliance with, as applicable, the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26, related Arizona statutes, and related rules, regulations and policies; and
- 7. A summary of any previous assistance provided by the Authority to the applicant.
- B. ~~After an opportunity for public comment, the~~ Board shall make a determination regarding the applicant’s request for financial assistance at a public meeting. The Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Board’s determination, which may include recommended modifications to any of the following:
  - 1. The proposed project,
  - 2. The applicant’s legal structure and organization,
  - 3. The dedicated revenue source for repayment, or
  - 4. The structure of the financial assistance request.
- C. If the Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Drinking Water Revolving Fund Project Priority List that the Authority is no longer accepting applications. The Board shall determine the amount of funding available, if any, to provide financial assistance for the applications already accepted by the Authority. The Board shall consider each application in the order the project appears within the fundable range on the current Drinking Water Revolving Fund Project Priority List. The Board shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D. Upon Board approval of the applicant’s request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

**ARTICLE 4. WATER SUPPLY DEVELOPMENT REVOLVING FUND**

**R18-15-401. Water Supply Development Revolving Fund Financial Assistance Eligibility Criteria**

To be eligible to receive financial assistance from the Water Supply Development Revolving Fund, the applicant shall demonstrate the applicant is a water provider as defined by A.R.S. ~~§ 49-1201(14)~~ § 49-1201(13) requesting financial assistance for a purpose as defined in A.R.S. § 49-1273(A); the water provider meets the requirements of A.R.S. § 49-1273(C); and the proposed project appears on the Water Supply Development Revolving Fund ~~Project Priority List~~ project list developed under ~~R18-15-403~~ R18-15-402.

**~~R18-15-402. Water Supply Development Revolving Fund Intended Use Plan Renumbered~~**

- ~~A. The Authority annually shall develop and publish a Water Supply Development Revolving Fund Intended Use Plan that identifies the intended uses of funds available in the Water Supply Development Revolving Fund Program. The Intended Use Plan shall include the project priority list according to R18-15-403 and specify whether funds are available to subsidize the projects. The Authority is not required to prepare a Water Supply Development Revolving Fund Intended Use Plan if funds are not adequate to assist any projects or if the Committee determines that no financial assistance will be offered for the annual funding cycle.~~
- ~~B. The Authority shall provide for a public review and written comment period of the draft Water Supply Development Revolving Fund Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Committee review. After review of the summary, the Committee shall make any appropriate changes to the Plan and then adopt the Water Supply Development Revolving Fund Intended Use Plan at a public meeting.~~

**~~R18-15-403~~R18-15-402. Water Supply Development Revolving Fund Project Priority List**

- ~~A. The Authority annually shall prepare a Water Supply Development Revolving Fund Project Priority List project list as part of the Intended Use Plan described in R18-15-402. The Authority is not required to prepare a Water Supply Development Revolving Fund Project Priority List project list if funds are not adequate to assist any projects or if the Committee Board determines that no financial assistance will be offered for the annual funding cycle.~~
- ~~B. An applicant pursuing financial assistance from the Authority for a water supply development project shall request to have the project included on the Water Supply Development Revolving Fund Project Priority List project list. The applicant may request that multiple projects be placed on the Water Supply Development Revolving Fund Project Priority List project list. An applicant shall make a request for placement of a project on the Water Supply Development Revolving Fund Project Priority List project list on or before a date specified by the Authority and in an application format specified by the Authority. The Authority shall include with the project priority list application form the criteria under each ranking category in ~~R18-15-404(A)~~ R18-15-403(A) by which the project will be evaluated and the relative importance of each of the criterion.~~
- ~~C. In preparing the Water Supply Development Revolving Fund Project Priority List project list, the Authority shall consider all project priority list applications submitted under subsection (B). The Authority shall evaluate the merits of each project with respect to water supply development issues and determine the order and priority value of each project according to ~~R18-15-404~~ R18-15-403. At a minimum, the Water Supply Development Revolving Fund Project Priority List project list shall identify:
 
  - 1. The applicant;
  - 2. Project title;
  - ~~3. Type of project;~~
  - ~~4.~~ 3. Population of water provider’s service area;
  - ~~5.~~ 4. The amount requested for financial assistance; and
  - ~~6. The subsidy rate index according to R18-15-404(C);~~
  - ~~7. Whether the project is within the fundable range according to R18-15-405; and~~
  - ~~8.~~ 5. The rank order and priority of each project by the priority value, determined according to ~~R18-15-404~~ R18-15-403.~~
- ~~D. The Authority shall provide for a public comment period of the draft Water Supply Development Revolving Fund project list for a minimum of 14 calendar days. The Authority shall summarize all written comments submitted and prepare responses for Board review. After review of the summary, the Board shall make any appropriate changes to the project list and then adopt the Water Supply Development Revolving Fund project list at a public meeting.~~



~~DE.~~ After adoption of the annual ~~Intended Use Plan and Water Supply Development Revolving Fund Project Priority List~~ project list according to R18-15-402, the ~~Committee Board~~ may allow:

1. Updates and corrections to the adopted Water Supply Development Revolving Fund ~~Project Priority List~~ project list, if the updates and corrections are adopted by the ~~Committee Board~~ after an opportunity for ~~public comment at a public meeting~~ public notice; or
2. Additions to the Water Supply Development Revolving Fund ~~Project Priority List~~ project list, if the additions are adopted by the ~~Committee Board~~ after an opportunity for ~~public comment at a public meeting~~ public notice.

~~EF.~~ After an opportunity for ~~public comment at a public meeting~~ public notice, the ~~Committee Board~~ may remove a project from the Water Supply Development Revolving Fund ~~Project Priority List~~ project list under one or more of the following circumstances:

1. The recipient has received all financial assistance identified in the executed financial assistance agreement with the Authority;
2. The project was financed with ~~long-term indebtedness~~ from another source;
3. The project is no longer an eligible project;
4. The applicant requests removal;
5. The applicant is no longer an eligible applicant; or
6. The applicant did not update, modify, correct or resubmit a project ~~that remained on from~~ the project priority list for more than ~~365 days~~ developed for the previous funding cycle.

#### ~~R18-15-404.~~R18-15-403. Water Supply Development Revolving Fund Project Priority List Ranking

A. ~~The Authority shall rank each project listed on the Water Supply Development Revolving Fund Project Priority List based on the priority value of each project.~~ The Authority shall consider the following categories to determine the order and priority value of each project on the Water Supply Development Fund project list.

1. The Authority shall evaluate the existing, near-term, and long-term water demands of the water provider as compared to the existing water supplies of the water provider.
2. The Authority shall evaluate the existing and planned conservation and water management programs of the water provider.
3. The Authority shall evaluate the current conditions of the water provider's facilities and the water provider's water supply needs, and evaluate how effectively the project will benefit the infrastructure or water supply needs.
4. The Authority shall evaluate the sustainability of the water supply to be developed through the project.
5. The Authority shall evaluate the applicant's local fiscal capacity need for financial assistance.

B. ~~If two or more projects have the same rank according to subsection (A), Two or more projects may receive the same total points. If sufficient water supply development revolving loan funds are not available to fund the projects, the Authority shall give priority to the project with the highest water demand value score under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest conservation and water management value score under subsection (A)(2). If projects remain tied, this process shall continue through the categories under subsections (A)(3) through (5), sequentially. If projects continue to have the same priority value remain tied, the Committee Board shall determine the priority of the tied projects.~~

C. ~~If monies are available to provide a subsidy to the project, the Authority shall determine the subsidy rate index for each project on the Water Supply Development Revolving Fund Project Priority List based on the applicant's local fiscal capacity value and the overall priority value of the project. The Authority shall incorporate the subsidy rate index in the financial assistance agreement.~~

#### ~~R18-15-405.~~ R18-15-405. Water Supply Development Revolving Fund Fundable Range for Financial Assistance Renumbered

A. ~~Prior to adoption by the Committee of the Water Supply Development Revolving Fund Project Priority List, the Authority shall determine which projects are within the fundable range.~~

B. ~~In determining the fundable range the Authority shall evaluate each project for evidence that the project is ready to proceed. The Authority shall consider any of the following indicators when evaluating whether the project is within the fundable range:~~

1. ~~Evidence of debt authorization according to R18-15-104(B);~~
2. ~~Evidence that the applicant has obtained applicable local, state, or federal project permits, as applicable;~~
3. ~~Evidence of approval by the appropriate authority of project plans and specifications; and~~
4. ~~Evidence that the applicant has initiated the bid or solicitation process.~~

#### ~~R18-15-406.~~R18-15-404. Water Supply Development Revolving Fund Application for Financial Assistance

A. The Authority shall accept an application for financial assistance from an eligible applicant for a project that appears on the Water Supply Development Revolving Fund ~~Project Priority List~~ project list ~~and is determined to be within the fundable range.~~ At the Authority's discretion, the Authority may accept an application for financial assistance prior to the project appearing on a ~~Committee Board-adopted Water Supply Development Fund Project Priority List project list.~~

B. The Authority shall not forward an application for financial assistance to the ~~Committee Board~~ for consideration until all the following conditions are met:

1. The water supply development project has been prioritized;
2. The applicant has provided supporting documentation according to ~~R18-15-405(B)~~ R18-15-104;
3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability under R18-15-104; and
4. ~~The applicant has obtained or is in the process of obtaining all permits and approvals required by federal, state, and local authorities; and~~
5. The applicant has demonstrated the ability to meet any applicable environmental requirements imposed by federal, state, or local agencies.

#### ~~R18-15-407.~~R18-15-405. Water Supply Development Revolving Fund Application Review for Financial Assistance

A. The Authority shall evaluate and summarize each application for financial assistance received and develop an analysis that provides recommendations to the ~~Committee Board~~. The analysis shall at a minimum include:

1. The scope, size, and budget of the proposed project, including as much cost detail as possible;



2. A summary of the applicant’s legal capability including authorization to enter into long-term indebtedness and to pledge the specified dedicated revenue source for repayment;
  3. A summary of the applicant’s technical capability, including its ability to construct, operate and maintain the proposed project;
  4. A summary of the applicant’s managerial capability, including the experience of elected officials and management team in managing similar organizations and similar projects;
  5. A summary of the applicant’s financial capability, including:
    - a. The amount of money collected through the dedicated revenue source for repayment for each of the previous three ~~fiscal years~~ financial operating years (fiscal or calendar);
    - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current ~~fiscal year~~ financial operating year (fiscal or calendar), and
    - c. A projection of the amount of money that will be collected through the dedicated revenue source for repayment for each of the next five ~~fiscal years~~ financial operating years (fiscal or calendar);
  6. A summary of any previous assistance provided by the Authority to the applicant; and
  7. A summary of the applicant’s ability to meet any applicable permitting and environmental requirements imposed by federal, state, or local agencies.
- B.** The Committee Board shall make a determination regarding the applicant’s request for financial assistance at a public meeting. The Committee Board shall base this determination on the information provided in the application, the analysis prepared by the Authority, and any other information provided at the public meeting. The Authority shall inform the applicant of the Committee’s Board’s determination, which may include recommended modifications to any of the following:
1. The proposed project,
  2. The applicant’s legal structure and organization,
  3. The dedicated revenue source for repayment, or
  4. The structure of the financial assistance request.
- C.** If the Committee Board determines at any time during a funding cycle that funds are limited or are not available to provide financial assistance, the Authority shall notify applicants on the current Water Supply Development Revolving Fund ~~Project Priority List project list~~ that the Authority is no longer accepting applications. The Committee Board shall determine the amount of funding available, if any, to provide financial assistance for the applications by the Authority. The Committee Board shall consider each application in the order the project appears ~~within the fundable range~~ on the current Water Supply Development Revolving Fund ~~Project Priority List project list~~. The Committee Board shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D.** Upon Committee Board approval of the applicant’s request for financial assistance, the Authority shall prepare a financial assistance agreement for execution by the applicant and the Authority.

**~~R18-15-408. R18-15-406.~~ Water Supply Development Revolving Fund Requirements**

The duly authorized agent, principal or officer of the applicant shall certify the applicant has not violated any federal, state, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning, design, or construction work on a project.

**ARTICLE 5. TECHNICAL ASSISTANCE**

**R18-15-501. Technical Assistance**

The Authority may provide Clean Water technical assistance, Drinking Water technical assistance, and Water Supply Development technical assistance ~~if funding is approved in the Technical Assistance Intended Use Plan according to R18-15-502~~. The Authority shall provide technical assistance in compliance with A.R.S. § 49-1203(B)(16) and (17).

**R18-15-502. Technical Assistance Intended Use Plan**

- A.** The Authority annually shall develop and publish one or more Technical Assistance Intended Use Plans that identify intended uses of funds available for Clean Water technical assistance and Drinking Water technical assistance. ~~The Authority shall develop a Water Supply Development Technical Assistance Intended Use Plan if funds are available or if the Committee determines that Water Supply Development technical assistance will be offered.~~ The Intended Use Plan shall identify whether funds are available and the amount of funds available for planning and design assistance ~~grants~~, staff assistance, and professional assistance for Clean Water, ~~and Drinking Water, and Water Supply Development~~. The Authority may develop Technical Assistance Intended Use Plans separately for Clean Water, ~~and Drinking Water, and Water Supply Development~~ or as parts of the Intended Use Plans required under R18-15-202; ~~and R18-15-302, and R18-15-402~~. If the Technical Assistance Intended Use Plan is to be submitted as a document required to obtain a federal capitalization grant, the Technical Assistance Intended Use Plan shall include any additional information required by federal law. ~~The Authority is not required to prepare a Water Supply Development Technical Assistance Intended Use Plan if funds are not adequate to assist any projects or if the Committee determines that no Water Supply Development technical assistance will be offered for the annual funding cycle.~~
- B.** The Authority shall provide for a public review and written comment period of any draft Technical Assistance Intended Use Plan for a minimum of 14 calendar days. The Authority shall summarize all written comments received and prepare responses. The Authority shall provide a summary of the written comments and the Authority’s responses regarding the Clean Water and Drinking Water Technical Assistance Intended Use Plans to the Board ~~and provide a summary of the written comments and the Authority’s responses regarding any Water Supply Development Technical Assistance Intended Use Plan to the Committee~~. After review of the comments and the Authority’s responses to comments received during the public review and written comment period, the Board ~~or the Committee~~, as applicable, shall adopt the applicable Technical Assistance Intended Use Plan or Plans at a public meeting with any changes made in response to public comments or comments by members of the Board ~~or Committee~~.

**R18-15-503. Clean Water Planning and Design Assistance Grants**

- A. Planning and design assistance ~~grants~~ to a specific wastewater treatment facility shall assist that system to achieve or enhance its legal, financial, technical, or managerial capability to facilitate the design, construction, acquisition, improvement, or consolidation of the wastewater treatment facility. Projects for any other purpose permitted by the Clean Water Act including nonpoint source projects are also eligible. The Board shall approve funds available for planning and design assistance ~~grants~~ in the annual Clean Water Technical Assistance Intended Use Plan. The Board may determine that no assistance will be offered for the annual funding cycle.
- B. To be eligible to receive a planning and design assistance ~~grant~~ under the Clean Water Technical Assistance Program, the ~~grant~~ applicant shall demonstrate the applicant is eligible under R18-15-201 a governmental unit that owns a wastewater treatment facility, or a non-governmental unit requesting technical assistance specifically for the purpose of forming a political subdivision. An eligible ~~grant~~ applicant shall apply for a planning and design assistance ~~grant~~ on or before a date specified by the Authority and on a an ~~grant~~ application form specified by the Authority.
- C. ~~A~~ An ~~grant~~ applicant shall commit to a matching contribution toward the total project cost as specified in the Request for ~~Grant~~ Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the ~~grant~~ applicant's match requirement according to criteria established in the Request for ~~Grant~~ Applications.
- D. The Authority shall solicit, evaluate, and award planning and design assistance ~~grants~~ in accordance with A.R.S. § 41-2702.
- E. The Authority shall evaluate the ~~grant~~ applications received to determine which projects are eligible under the Clean Water Act, 33 U.S.C. 1381 to 1387. Eligible ~~grant~~ applications shall specify a demonstrated need of the ~~grant~~ applicant for assistance in securing financial assistance for development and implementation of a wastewater capital improvement project or stormwater or nonpoint source project.
- F. The Authority shall determine planning and design assistance ~~grant~~ awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance ~~grant~~ award recommendations to the Board for review and approval at a public meeting. The Board may adopt, modify, or reject the Authority's recommendations in whole or in part.
- G. Within 30 days after the adoption of the planning and design assistance ~~grant~~ awards at a public meeting, the Authority shall notify all ~~grant~~ applicants whether or not they received an award.
- H. An unsuccessful ~~grant~~ applicant may submit an appeal in writing in accordance with A.R.S. § 41-2704.
- I. The Authority and the ~~grant~~ applicant shall enter into a planning and design assistance ~~grant~~ agreement that shall include at a minimum:
1. A scope of work,
  2. The amount ~~of the grant~~ awarded,
  3. The amount of the local match required,
  4. A final project budget and timeline, and
  5. Reporting requirements.
- ~~J. Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.~~
- ~~J.K.~~ The Authority shall release ~~grant~~ proceeds subject to a disbursement request if the request is consistent with the planning and design assistance ~~grant~~ agreement and the disbursement schedule.
1. The ~~grant~~ recipient shall request each disbursement on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the ~~applicant recipient~~ provides a completed disbursement form.
  2. The ~~grant~~ recipient shall include copies of invoices, ~~anceled checks,~~ or other documents that show proof of eligible costs incurred with each disbursement request.

**R18-15-504. Drinking Water Planning and Design Assistance Grants**

- A. Planning and design assistance ~~grants~~ to a specific drinking water facility, excluding a nonprofit noncommunity water system, shall assist that facility to achieve or enhance its legal, financial, technical, or managerial capability to facilitate the design, construction, acquisition, improvement, or consolidation of a community water system. The Board shall approve funds available for planning and design assistance ~~grants~~ in the annual Drinking Water Technical Assistance Intended Use Plan. The Board may determine that no assistance will be offered for the annual funding cycle.
- B. To be eligible to receive a planning and design assistance ~~grant~~ under the Drinking Water Technical Assistance Program, the ~~grant~~ applicant shall demonstrate the applicant owns a drinking water facility, excluding a nonprofit noncommunity water system. An eligible ~~grant~~ applicant shall apply for a planning and design assistance ~~grant~~ on or before a date specified by the Authority and on a an ~~grant~~ application form specified by the Authority.
- C. ~~A~~ An ~~grant~~ applicant shall commit to a matching contribution toward the total project cost as specified in the Request for ~~Grant~~ Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the ~~grant~~ applicant's match requirement according to criteria established in the Request for ~~Grant~~ Applications.
- D. The Authority shall solicit, evaluate, and award planning and design assistance ~~grants~~ in accordance with A.R.S. § 41-2702.
- E. The Authority shall evaluate the ~~grant~~ applications received to determine which projects are eligible under the Safe Drinking Water Act, 42 U.S.C. 300f to 300j-26. Eligible ~~grant~~ applications shall specify a demonstrated need of the ~~grant~~ applicant for assistance in securing financial assistance for development and implementation of a drinking water capital improvement project.
- F. The Authority shall determine planning and design assistance ~~grant~~ awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance ~~grant~~ award recommendations to the Board for review and approval at a public meeting. The Board may adopt, modify, or reject the Authority's recommendations in whole or in part.
- G. Within 30 days after the adoption of the planning and design assistance ~~grant~~ awards at a public meeting, the Authority shall notify all ~~grant~~ applicants whether or not they received an award.
- H. An unsuccessful ~~grant~~ applicant may submit an appeal in writing according to A.R.S. § 41-2704.



- I. The Authority and the ~~grant~~ applicant shall enter into a planning and design assistance ~~grant~~ agreement that shall include at a minimum:
  1. A scope of work,
  2. The amount of the ~~grant~~ awarded,
  3. The amount of the local match required,
  4. A final project budget and timeline, and
  5. Reporting requirements.
- ~~J. Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.~~
- ~~J.K.~~ The Authority shall release ~~grant~~ proceeds subject to a disbursement request if the request is consistent with the planning and design assistance ~~grant~~ agreement and the disbursement schedule.
  1. The ~~grant~~ recipient shall request each disbursement on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost-incurred report, and a DBE report. The Authority shall not process a disbursement until the applicant recipient provides a completed disbursement form.
  2. The ~~grant~~ recipient shall include copies of invoices, ~~canceled checks~~, or other documents that show proof of eligible costs incurred with each disbursement request.

**R18-15-505. Water Supply Development Planning and Design Assistance Grants**

- A. Planning and design assistance grant funding to a water provider shall assist the water provider in the planning or design of a water supply development project. A single planning and design assistance grant award shall not exceed \$100,000. ~~The Committee shall approve funds available for planning and design assistance grants in the annual Water Supply Development Technical Assistance Intended Use Plan. The Committee Board may determine that no assistance will be offered for the annual funding cycle.~~
- B. To be eligible to receive a planning and design assistance grant under the Water Supply Development Technical Assistance Program, the grant applicant shall demonstrate the applicant is a water provider as defined in A.R.S. § 49-1201 and meet the requirements of A.R.S. § 49-1273(C). An eligible grant applicant shall apply for a planning and design assistance grant on or before a date specified by the Authority and on a grant application form specified by the Authority.
- C. A grant applicant shall commit to a matching contribution toward the total project cost as specified in the Request for Grant Applications. The matching contribution may include cash contributions or in-kind contributions. The Board may waive or modify the grant applicant’s match requirement according to criteria established in the Request for Grant Applications.
- D. The Authority shall solicit, evaluate, and award planning and design assistance grants in accordance with A.R.S. § 41-2702.
- E. The Authority shall evaluate the grant applications received to determine which projects are eligible. Eligible ~~grant~~ applications shall specify a demonstrated need of the grant applicant for assistance in securing financial assistance for planning and design of a water supply capital improvement project.
- F. The Authority shall determine planning and design assistance grant awards based on the amount of funding available. If funding is limited, all eligible projects may not be funded. The Authority shall provide the planning and design assistance grant award recommendations to the Committee Board for review and approval at a public meeting. The Committee Board may adopt, modify, or reject the Authority’s recommendations in whole or in part.
- G. Within 30 days after the adoption of the planning and design assistance grant awards at a public meeting, the Authority shall notify all grant applicants whether or not they received an award.
- H. An unsuccessful grant applicant may submit an appeal in writing according to A.R.S. § 41-2704.
- I. The Authority and the grant applicant shall enter into a planning and design assistance grant agreement that shall include at a minimum:
  1. A scope of work,
  2. The amount of the grant awarded,
  3. The amount of the local match required,
  4. A final project budget and timeline, and
  5. Reporting requirements.
- ~~J. Project costs incurred prior to execution of a planning and design assistance grant agreement shall not be eligible for grant funding.~~
- ~~J.K.~~ The Authority shall release grant proceeds subject to a disbursement request if the request is consistent with the planning and design assistance grant agreement and the disbursement schedule.
  1. The grant recipient shall request each disbursement on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, and a cost-incurred report. The Authority shall not process a disbursement until the applicant recipient provides a completed disbursement form.
  2. The grant recipient shall include copies of invoices, ~~canceled checks~~, or other documents that show proof of eligible costs incurred with each disbursement request.

**ARTICLE 6. HARDSHIP GRANT FUND PROGRAM**

**R18-15-602. Hardship Grant Fund Financial Assistance**

- A. If funding is available in the Hardship Grant Fund Program, the Authority shall determine if any of the applicants requesting placement on the Clean Water Revolving Fund Project Priority List meet the requirements according to A.R.S. § 49-1268(A)(2). Criteria by which assistance will be awarded shall be based on criteria established in the capitalization grant providing the funding. In addition to meeting the requirements of A.R.S. § 49-1268(A)(2), the applicant shall meet the following:
  - ~~1. On the date the applicant applies for financial assistance, the per capita annual income of the community’s residents does not exceed 80% of national per capita income as reported by the U.S. Census Bureau.~~
  - ~~2. On the date the applicant applies for financial assistance, the community’s local unemployment rate exceeds by one percentage point or more the most recently reported average yearly national unemployment rate as reported by the U.S. Department of Labor’s Bureau of Labor Statistics.~~







low dollar premium policies is obsolete. When enacted, the low premium trigger allowed insurers to provide less benefits when the policy premium met the low-dollar premium threshold. This trigger has largely been eliminated by inflation over the last 35 years.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Name: Mary E. Kosinski  
Address: Department of Insurance  
2910 N. 44th St., Suite 210  
Phoenix, AZ 85018  
Telephone: (602) 364-3471  
E-mail: mkosinski@azinsurance.gov

**10. The time, place, and nature of the proceedings to make, amend, repeal, or renumber the rule or, in no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

The Department has no plans to hold a hearing on the proposed rulemaking at this time. However, the Department will schedule an oral proceeding on the proposed rule if, within 30 days after the published notice, a written request for an oral proceeding is submitted to the contact person listed in paragraph 4 of this Notice.

**11. All agencies shall list other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

- a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
No permit is required.
- b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**  
No federal law is applicable.
- c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
No person submitted an analysis.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**  
Not applicable

**13. The full text of the rule follows:**

**TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE  
CHAPTER 6. DEPARTMENT OF INSURANCE**

**ARTICLE 6. TYPES OF INSURANCE CONTRACTS**

Section  
R20-6-607. Reasonableness of Benefits in Relation to Premium Charged

**ARTICLE 6. TYPES OF INSURANCE CONTRACTS**

**R20-6-607. Reasonableness of Benefits in Relation to Premium Charged**

- A.** Applicability. This rule shall apply to individual disability insurance (as defined in A.R.S. § 20-253) policy forms and rates.
- B.** When rate filing is required. Every individual policy form, rider or endorsement form affecting benefits which is submitted for approval shall be accompanied by a rate filing unless such rider or endorsement form does not require a change in the rate. Any subsequent addition to or change in rates applicable to such policy, rider or endorsement form shall also be filed.
- C.** General contents of all rate filings. Each rate submission shall include an actuarial memorandum describing the basis on which rates were determined and shall indicate and describe the calculation of the ratio, hereinafter called "anticipated loss ratio," of the present value of the expected benefits to the present value of the expected premiums over the entire period for which rates are computed to provide coverage. Each rate submission must also include a certification by a qualified actuary that to the best of the actuary's knowledge and judgment, the rate filing is in compliance with applicable laws and regulations of this state and that the benefits are reasonable in relation to the premiums.
- D.** Previously approved forms. Filings of rate revisions for a previously approved policy, rider or endorsement form shall also include the following:
  - 1. A statement of the scope and reason for the revision, and an estimate of the expected average effect on premiums including the anticipated loss ratio for the form.
  - 2. A statement as to whether the filing applies only to new business, only to in-force business, or both, and the reasons therefor.
  - 3. A history of the experience under existing rates, including at least the data indicated in subsection (D); (E). The history may also include, if available and appropriate, the ratios of actual claims to the claims expected according to the assumptions underlying the existing rates. Additional data might include: substitution of actual claim run-offs for claim reserves and liabilities; determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums; accumulations of experience funds; substitution of net level policy reserves for preliminary term policy reserves; adjustment of premiums to an annual mode basis; or other adjustments or schedules suited to the form and to the



~~records of the company.~~ All additional data must be reconciled, as appropriate, to the required data. Additional data might include:

- a. Substitution of actual claim run-offs for claim reserves and liabilities.
- b. Determination of loss ratios with the increase in policy reserves (other than unearned premium reserves) added to benefits rather than subtracted from premiums.
- c. Substitution of net level policy reserves for preliminary term policy reserves.
- d. Adjustment of premiums to an annual mode basis, or
- e. Other adjustments or schedules suited to the form and to the records of the company.

- 4. The date and magnitude of each previous rate change, if any.
- E. Experience records. Insurers shall maintain records of earned premiums and incurred benefits for each calendar year for each policy form, including data for rider and endorsement forms which are used with the policy form, on the same basis, including all reserves, as required for the Accident and Health Policy Experience Exhibit to the NAIC annual statement convention blank. Separate data may be maintained for each rider or endorsement form to the extent appropriate. Experience under forms which provide substantially similar coverage may be combined. The data shall be for all years of issue combined, for each calendar year of experience since the year the form was first issued, except the data for calendar years prior to the most recent five years may be combined.
- F. Evaluation experience data. In determining the credibility and appropriateness of experience data, due consideration must be given to all relevant factors, such as:
  - 1. Statistical credibility of premiums and benefits, e.g., low exposure, low loss frequency.
  - 2. Experienced and projected trends relative to the kind of coverage, e.g., inflation in medical expenses, economic cycles affecting disability income experience.
  - 3. The concentration of experience at early policy durations where select morbidity and preliminary term reserves are applicable and where loss ratios are expected to be substantially lower than at later policy durations.
  - 4. The mix of business by risk classification.
- G. Anticipated loss ratio standard. With respect to a new form or a currently approved form, except currently approved non-cancelable policy forms, under which the average annual premium (as defined below) is expected to be at least ~~\$200~~, \$700, benefits shall be deemed reasonable in relation to premiums provided the anticipated loss ratio is at least as great as shown in the following table.

Type of Coverage	Renewal Clause			
	OR	CR	GR	NC
Medical expense	60%	55%	55%	50%
Loss of income and other	60%	55%	50%	45%

For a policy form including riders and endorsements, under which the expected average annual premium per policy is ~~\$100~~ \$200 or more but less than ~~\$200~~, \$700, subtract 5 percentage points from the numbers in the table above, or if less than ~~\$100~~, \$200, subtract 10 percentage points.

The average annual premium per policy shall be computed by the insurer based on an anticipated distribution of business by all applicable criteria having a price difference, such as age, sex, amount, dependent status, rider frequency, etc., except assuming an annual mode for all policies (i.e., the fractional premium loading shall not affect the average annual premium or anticipated loss ratio calculation.)

The above anticipated loss ratio standards do not apply to a class of business which is regulated by specific statutes or regulations mandating loss ratios for such business, e.g., Medicare Supplement and Credit Life and Disability.

Definitions of Renewal Clause

- OR – Optionally Renewable: renewal is at the option of the insurance company.
- CR – Conditionally Renewable: renewal can be declined by the insurance company only for stated reasons other than deterioration of health.
- GR – Guaranteed Renewable: renewal cannot be declined by the insurance company for any reason, but the insurance company can revise rates on a class basis.
- NC – Non-Cancelable: renewal cannot be declined nor can rates be revised by the insurance company.

- H. Rate revisions. With respect to filings of rate revisions for a previously approved form, benefits shall be deemed reasonable in relation to premiums provided both the following loss ratios meet the standards in subsection ~~(F)~~(G) above.
  - 1. The anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage;
  - 2. The anticipated loss ratio derived by dividing (a) by (b) where:
    - a. Is the sum of the accumulated benefits, from the original effective date of the form or the effective date of this regulation, whichever is later, to the effective date of the revision, and the present value of future benefits; and
    - b. Is the sum of the accumulated premiums from the original effective date of the form or the effective date of the regulation, whichever is later, to the effective date of the revision, and the present value of future premiums. Such present values shall be taken over the entire period for which the revised rates are computed to provide coverage, and such accumulated benefits and premiums to include an explicit estimate of the actual benefits and premiums from the last date as of which an accounting has been made to the effective date of the revision. Interest shall be used in the calculation of these accumulated benefits and premiums and present values only if it is a significant factor in the calculation of this loss ratio.
- I. Anticipated loss ratios lower than those indicated in subsections ~~(H) and (I)~~ (H)(1) and (H)(2) will require justification based on the special circumstances that may be applicable.
  - 1. Examples of coverages requiring special consideration are as follows:
    - a. Accident only;
    - b. Short term nonrenewable, e.g., airline trip, student accident;



- c. Specified peril, e.g., common carrier; and
- d. Other special risks.
- 2. Examples of other factors requiring special consideration are as follows:
  - a. Marketing methods, giving due consideration to acquisition and administration costs and to premium mode;
  - b. Extraordinary expenses;
  - c. High risk of claim fluctuation because of the low loss frequency of the catastrophic, or experimental nature of the coverage;
  - d. Product features such as long elimination periods, high deductibles and high maximum limits;
  - e. The industrial or debit method of distribution; and
  - f. Forms issued prior to the effective date of this rule. Companies are urged to review their experience periodically and to file rate revisions, as appropriate, in a timely manner to avoid the necessity of later filing of exceptionally large rate increases.
- 3. Notwithstanding the foregoing paragraphs to the contrary, hospital indemnity and cancer and other dread diseases policies shall develop the loss ratios pursuant to subsection (G).
- J.** Severability provision. If any provision of this rule or the application thereof to any person or circumstances is held invalid, the remainder of the rule and the application of such provision to other persons or circumstances shall not be affected thereby.
- K.** Effective date. This rule shall become effective upon filing with the Secretary of State and shall apply to all individual disability policy form and rate filings submitted on and after said date.