

(This ADEQ document matches the official rulemaking published at 4 A.A.R. 1489)

## NOTICE OF FINAL RULEMAKING

### TITLE 18. ENVIRONMENTAL QUALITY

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

##### PREAMBLE

<b>1.</b>	<b><u>Sections Affected</u></b>	<b><u>Rulemaking Action</u></b>
	R18-15-101	Amend
	R18-15-107	Amend
	R18-15-108	Amend
	R18-15-110	ReNUMBER
	R18-15-110	New Section
	R18-15-111	ReNUMBER
	R18-15-111	Amend
	R18-15-112	ReNUMBER
	R18-15-113	ReNUMBER
	R18-15-204	Amend
	R18-15-206	Amend
	R18-15-207	Amend
	R18-15-304	Amend
	R18-15-305	Amend
	R18-15-306	Amend
	R18-15-307	Amend
	R18-15-403	Amend
<b>2.</b>	<b><u>The specific authority for the rulemaking, including both the authorizing statutes (general) and the</u></b>	

**statutes the rules are implementing (specific):**

Authorizing & Implementing statutes: A.R.S. §§ 49-373(B)(7), 49-374, 49-374.01, 49-376

**3. The effective date for the rules;**

Effective on the date filed with the Secretary of State.

**4. A list of all previous notices appearing in the Register addressing the final rule:**

Notice of Docket Opening 3 A.A.R.3119 November 7, 1997

Vol.# page # Issue Date

Notice of Proposed Rule 3 A.A.R. 3543 December 19, 1997

Vol.# page # Issue Date

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

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

During the 43rd Legislative Session, House Bill 2304, Chapter 130 , Laws 1997 was passed. The governor signed this bill into law on April 22, 1997. The law became effective April 22, 1997 due to an emergency enactment. This legislation renamed the Wastewater Management Authority of Arizona to the Water Infrastructure Finance Authority of Arizona (WIFA). Prior to this legislation, WMA operated as a financing organization for wastewater treatment systems and nonpoint source projects. The new Authority now finances public drinking water facilities as well as wastewater facilities.

A rulemaking was completed in September of 1997, creating a new Chapter 15 in Title 18 of the Arizona Administrative Code. This chapter contains the same criteria for the clean water revolving fund as was previously found in the WMA fund priority classes (Title 18, Chapter 10, Wastewater Management Authority of Arizona) and added the funding priority classes for drinking water facilities (as defined in R18-15-101).

For FY 1998, WIFA created an intended use plan and project priority list for the clean water revolving fund and the drinking water revolving fund. Applications for funding were mailed out in the second quarter of 1997 to all known wastewater treatment facilities, potential non-point source projects, and drinking water facilities. On September 10, 1997, a draft Intended Use Plan was mailed to Arizona cities, towns, Indian tribes, sanitation districts, drinking water facilities, and interested parties for their review and comment. This draft included the anticipated fundable range from the FY 1998 Project Priority List. The draft priority list was prepared based upon specific requests received from Arizona communities.

The classing, scoring, and ranking for the drinking water revolving fund priority list resulted in approximately 94 facilities having the same class, with many having the same score. WIFA believes this clustering was a result of too general a ranking of facilities. WIFA decided that the clustering indicated a need for the rule to be amended so that the classification and scoring of facilities would create a clearer distinction among facilities.

WIFA discussed the clustering problem with ADEQ and others who participated in preparing the draft intended use plan. As a result of the discussions the following amendments were proposed. The classes provide a general

category for need. Class A facilities are most likely to pose an immediate threat to human health and the environment because of the documented presence of continuous or intermittent violations of the national primary drinking water standards involving acutely toxic contaminants. Class A facilities also include multi-year funded facilities. Multi-year funded projects must have been funded at least 20%. Class B facilities have a documented violation of the national primary drinking water standards involving non-acutely toxic contaminants, and some corrective action or mitigation measure must have been initiated. Class C facilities need to upgrade or rehabilitate existing delivery capability or existing facility design as a result of a documented violation of the physical plan. Class D facilities need to upgrade or rehabilitate existing delivery capability or existing facility design, but the upgrade or rehabilitation is not required as a result of a documented violation of the physical plant. Class E facilities have a goal to consolidate or regionalize service of previously separated drinking water facilities. Class F facilities are projects without any other designation.

Within the drinking water revolving fund, Class A for continuing projects now has a qualifier to ensure that high priority multi-year projects are the only projects that may automatically qualify for Class A on subsequent funding years. For a project to automatically qualify as a Class A project, WIFA now requires a multi-year project to have been classified as either Class A, B or C in the prior year (rather than any class). The project must have received at least 20 points within the class, based upon the prior year's need. This is to avoid the potential situation of a multi-year funding commitment automatically qualifying for Class A in subsequent years, irrespective of need or classification.

Class C contained more than 50% of the projects in the draft project priority list for the 1997 drinking water revolving fund. WIFA found that Class C's designation of "condition of facility" was too general and did not sufficiently distinguish between problems that were documented by ADEQ and those that were known, but had not risen to the level of ADEQ's attention. Within the drinking water revolving fund, Class C was reduced to include only drinking water facilities that have documented violations in the water system physical plant. WIFA believes that if a violation has been documented by ADEQ, it is more likely that the violation is more severe than a non-documented violation of the water system physical plant. This may not be true in all cases, but WIFA tried

to develop some criteria to distinguish the need for funding among drinking water facilities.

Within the drinking water revolving fund, Class D was amended to include what used to be part of Class C, that is, projects that rehabilitate existing delivery capability or existing facility design or upgrades that are not a result of documented violations of the physical plant. This is intended to distinguish facilities that are out of compliance and presumptively a health problem from others that are not presumptively a health problem. WIFA understands that regardless of documented violations, there may still be a health problem in both cases. However, if there is a health problem that is documentable, it is anticipated that the facility should be in either Class A or Class B. Therefore, the separation within what used to be Class C into Classes C and D is believed to better rank the need rather than a general class called condition of the facility.

The previous drinking water revolving fund Class D was for consolidation or regionalization of services. The prior Class D is now designated as Class E due to the separation of Class C into Classes C and D. As a result, the previously designated Class E is now Class F. No other new classes have been added.

To further distinguish the ranking criteria for drinking water facilities within a class, the single criteria of the “condition of the facilities and sources” has been replaced with the following four criteria:

1. Acquiring, Rehabilitating or Developing Sources (ARD)
2. Treatment Upgrade or Treatment Expansion (TUE)
3. Distribution System (DS)
4. Storage Facility (SF)

Rather than assigning a total of 125 points to condition of facility, elements of the condition of the facility are as follows:

50 points are now assigned to ARD

30 points to TUE, DS, and SF.

Therefore, it is possible a maximum of 140 may be awarded, however review of many systems shows a tendency for systems to need one or two elements upgraded or repaired rather than all possible elements for example,

watersource, distribution system, and storage. The Acquiring, Rehabilitating or Developing Sources is believed to have a greater need for funding rather than either the treatment upgrade or treatment expansion, the distribution, or the storage facility. WIFA believes that absent a good water source, a facility is highly unlikely to be providing any water let alone quality water.

The drinking water revolving fund point assignment for Acquiring, Rehabilitating or Developing Sources (ARD) is split into two primary categories:

1. Up to 20 points for a new source capacity. If the new source is a renewable source the full 20 points are assigned. Only 10 points are awarded for a non-renewable source. This is intended to provide an incentive for facilities to seek out renewable sources.
2. In addition to the points awarded for the type of the new source, if the drinking water facility is under served by its current source, 30 points may be awarded for correcting contaminated or depleted water. It may be corrected by acquiring, rehabilitating or developing a new source. Expansion of the service area because of contaminated or insufficient water is assigned 15 points, as this may be the only solution. A new source for future growth is assigned 0 points to show no credit for future growth.

The primary change from the previous point assignments is that the condition of the facility is not used to determine the points. It is believed condition of the facility is better described by the type of change employed to correct the problem (contaminated or depleted water source), especially because the condition of many facilities is poor. The point assignment for the new source capacity remains the same, however it is one of two solutions that may be applied to a problem. A facility may obtain a new renewable water source while also rehabilitating a water source to serve a current service area. This section no longer focuses on the upgrade or rehabilitation capacity or a component of the system on a general level. The new point assignment identifies developing new sources and what service the new source will meet (current, expanded, or future growth).

Treatment upgrade and treatment expansion for drinking water facilities replaces the general criterion of

upgrading or rehabilitating existing, required disinfection equipment. This criterion breaks down the points into one of two methods, that is, upgrade surface water or upgrade ground water. Each type of upgrade may be assigned 30 points maximum and 10 points minimum, therefore no priority is given to treatment of the type of water. There can be 30 points assigned for treatment of surface water micro-organisms, or 30 points assigned for treatment of ground water with chlorination, or 20 points assigned for treatment of chemical constituents that are harmful if people are exposed to them, or 10 points assigned for treatment of chemical constituents that are not harmful if people are exposed to them.

The drinking water revolving fund Distribution System is amended to have 30 points assigned. This was an element of the condition of facilities and sources, but it is now listed as a separate priority class to distinguish the need of a distribution system versus a new source or treatment. There are four possible solutions a distribution system may employ as shown below:

1. Rehabilitation, replacement or repair of existing lines with either inadequate line size or inadequate pressure. (Inadequate line size or pressure poses the most problems to a system that will affect the public's health).
2. Rehabilitation, replacement or repair of existing lines. (This type will include other problems such as corroded pipes or water loss from poor connections).
3. Installation of new lines. (This is presumed to cure a need for water that cannot be presently met).
4. Rehabilitation, replacement or repair of a hydropneumatic tank.

The rule then assigns points ranging from 5 points to 30 points, for the method used to achieve the solutions listed above.

The drinking water revolving fund Storage Facility is amended to have 30 points assigned. WIFA allows 30 points for no storage, 25 points for storage which needs rehabilitation to cure inadequate storage or inadequate pressure, or 25 points for expansion of storage. Rehabilitating or expanding storage may be assigned 0 points for servicing future growth (the lowest priority), to 10 points for current growth, 15 or 20 points for servicing

an expanded area, 20 or 25 points for servicing an existing area, and 25 points for inadequate design of the storage facility (not applicable to the expanded storage).

To ensure that there are no more tie scores, WIFA added section K to the priority list ranking criteria for drinking water facilities. This section states that tied scores shall be ranked by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection. Although this may appear to favor large facilities, it is merely a tie breaker. WIFA believes that other criteria, such as needing a new source of water, or an acutely toxic contaminate will rank smaller water systems before large water systems. Therefore, the tie breaker is not expected to skew the project priority list to be top heavy with large systems, it only means that given two facilities with the exact score within a class, the larger system may precede the smaller system.

WIFA found that the project construction did not need to be linked to ADEQ's on-site inspections. Therefore the project construction section has been amended to state that the construction funding will be withheld until ADEQ issues an approval to construct to the applicant. This is a more responsible distribution of funding. This change was also applied to the clean water revolving fund and all other financial assistance.

WIFA must ensure all drinking water funds are used by projects within a year of creation of the project priority list. The drinking water funding reverts back to the federal general fund if the state does not use the money within that period of time. To ensure that WIFA does not lose any funding, as we don't receive enough to meet the needs of the state at this time, the rule has a standard for bypassing projects that are in the fundable range, but are not ready to be funded in the current fiscal year. The Board is directed to bypass a project within a fiscal year and offer funding to the next highest ranking project on the project priority list if either one of the following occurs:

1. The Board determines that substantial progress has not been made on a project toward being ready to proceed within 8 months of notification from WIFA that the project is within the fundable range of projects for that fiscal year; or

2. The Board determines that the project will not be ready to proceed within the current fiscal year. WIFA found with the first project priority list, that the third ranked project, which was a Class A project, could not be ready in the first year. WIFA needs to show the funds are being used to prevent loss of funding. Therefore, the rule describes the standard for determining when a project is bypassed. In the case of the project that was number 3 out of 168 projects, the project will remain a Class A, and as soon as the facility is ready to proceed, the Board will be able to fund the project. In other words, the bypassing of this project probably will not prevent it from being funded in a subsequent year. The only possible project that might miss being funded is a class D project that made the fundable range as a result of higher ranking projects, but then was not ready to proceed that year.

A new section was added for Bid Document Review. This section is R18-15-110, and it affects both the Drinking Water Revolving Fund and the Clean Water Revolving Fund. WIFA discovered some projects were being awarded to contractors without requirements for compliance with state and federal law. WIFA does not want to be penalized or lose funding as result of this, therefore the requirement of compliance is expressly stated. WIFA is now required to review all bid documents to ensure compliance with federal and state law prior to their release to prospective bidders.

Disbursements and Repayments, R18-15-111 was modified to clarify the procedure for repayments. Disbursements are to have been pre-approved by WIFA, therefore, repayment will automatically occur if the repayment amount is within 10% of the approved disbursement. A facility may amend the disbursement at any time, therefore this will not penalize changes that have been approved. This change to the rule is intended to ensure clarity among borrowers about qualified reimbursements.

Subsections were added to the Disbursement and repayment section to expressly state all required forms to be submitted. The forms include the MBE, WBE, SBRA reporting. All invoices, canceled checks and proof of payment are required for disbursement. To conform to standard construction disbursement procedures, WIFA now requires that the last substantial reimbursement be processed only after all permits are in place. The last

substantial reimbursement is defined as 10% of a contract less than \$1,000,000, 5% for a contract that is greater than \$1,000,000 but less than \$5,000,000, and 2% for a contract that exceeds \$5,000,000.

Definitions were added for clarity, and some grammatical changes were also made.

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. **A summary of the economic, small business, and consumer impact:**

A. Identification of this rulemaking

**TITLE 18. ENVIRONMENTAL QUALITY**

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

**ARTICLE 1. MANAGEMENT**

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

**ARTICLE 4. OTHER FINANCIAL ASSISTANCE**

B. Introduction

The primary purpose of these rules are to amend the scoring for the drinking water revolving fund to minimize clustering of many facilities within one class, to clarify standard procedures in the funding process, and to establish a method to break a tie score. Article 1 addresses the management by WIFA, and general funding procedures that apply to both the Clean Water Revolving Fund (for wastewater treatment facilities) and the Drinking Water Revolving Fund (for drinking water facilities), Article 2, the Clean Water Revolving Fund. The process for qualifying and receiving low-interest loans from WIFA for a drinking water facility is contained in Article 3, the Drinking Water Revolving Fund. Article 4 explains the process for other financial assistance authorized by Arizona Revised Statutes (A.R.S.) 49-379, "Water Quality Bonds as Legal Investments."

WIFA is a public financing agency. It does not regulate any consumer or business. Its sole purpose is to provide low-

interest loans to wastewater treatment facilities, nonpoint source projects, and drinking water facilities for solving problems that impact the environment and human health. Congress has authorized grant money to be used as collateral for the low-interest loans, thereby creating a state revolving fund. There are two funds. The clean water fund is for wastewater treatment facilities and nonpoint source projects, and the drinking water fund is for the drinking water facilities. Although the beneficiaries are different for each fund, the concept of the program remains the same, that is, a priority list is also created based upon the problem (the more immediate impact on human health, the greater the problem), the priority list is used to create an intended use plan which is published and open to public comment. After comments and corrections are received, the intended use plan is amended to reflect new information. WIFA will then begin to obligate funds to the entities which are ready to proceed.

WIFA is a self-supporting agency. It must pay for the administrative costs either by leveraging loans, or in the case of the drinking water fund, it may use up to 4% of the federal grant money for such costs. Each fund requires a state match of 20% to receive the maximum amount of federal grant money for loans. The clean water fund has never received a state match, therefore its 20% has been generated from loan leveraging. However, WIFA has held its administrative costs to 2% of the amount loaned. In the case of the drinking water fund, the Arizona legislature authorized \$3.4 million for the 20% state match, however, it may not be used for WIFA administrative costs.

WIFA received more than 200 applications from drinking water facilities for its first year to rank and classify their need. Out of all these facilities, a total funding need of \$242 million has been identified. Based upon the timing of the need, approximately 168 requested funding in fiscal year 1997-1998, with 13 requesting funding in fiscal year 1998-1999, and one requesting funds in fiscal year 2001-2002. The sum of 168, 13, and 1 is less than 200 because some applicants dropped out. WIFA was pleased to be able to fund at least one facility in each county in Arizona. WIFA has the funds to assist approximately 68 facilities. However, the facility that rated number 3 in need, will not be ready to proceed within the next year or two. Due to this problem, and the need to put the funds to use within 24 months of their appropriation to WIFA, this rule now provides criteria for bypassing a project listed:

1. The Board determines that substantial progress has not been made on a project toward being ready to proceed within 8 months of notification from WIFA that the project is within the fundable range of

projects for that fiscal year; or

2. The Board determines that the project will not be ready to proceed within the current fiscal year.

WIFA has found from experience with wastewater treatment facilities that it often takes 1 to 2 years for a facility to figure out how to organize, plan the needs, and begin implementation. WIFA will work with the facility, but WIFA understands that it cannot make a facility “hurry” therefore, the bypass procedure was created. WIFA also knows that the number three project will be funded as soon as it is ready to proceed. Therefore, WIFA does not believe that the bypass procedure will impact funding in a negative manner.

The requirements added for Bid Document Review, R18-15-110, do not appear to impose a new cost. The requirement that WIFA review the bid documents prior to their release to prospective bidders is a proactive step to ensure compliance with all Arizona statutes and federal requirements for funding the project. The requirements added to R18-15-111, Disbursements and Repayments place a check on the required documentation, and set a standard for deviations from the approved reimbursement. If the actual reimbursement is within 10% of the previously approved reimbursement, the reimbursement will be processed provided the following are included:

- certification and signature document,
- a cost incurred report,
- the MBE, WBE, SBRA report,
- invoices,
- proof of payment.

This procedure should have been included in the rule, because it is a standard reimbursement requirement for any federally funded project.

Another amendment is found in R18-15-111. The last substantial request for construction funds reimbursement may not be paid until all required facility permits are in place. The rule defines the last substantial reimbursement as 10% of the contract amount on a contract less than \$1 million, 5% for a contract amount greater than or equal to \$1 million and less than \$5 million, or 2% of the contract amount which is equal to or greater than \$5 million. This is not expected to impact anyone unless the facility has failed to obtain all facility permits, and WIFA should not fund a project that has not received

all required facility permits. It is not good business to be loaning money to a facility that has not received all permits (because it may not be in compliance), and federal funding requires compliance with all state and federal laws, or some demonstration that the funds will bring the facility into compliance. WIFA does not believe this requirement will have an impact because it will not prevent a project from being funded, it may cause a delay, but it is an appropriate delay. Worst case, this may extend the time before the last significant payment is made. Even if the construction is done to correct a deficiency in the system, all permits should be obtained to ensure the deficiency is properly corrected.

The most significant amendment to this rule is the restructuring of the classes and the assignment of points within the classes for the drinking water revolving fund. The scoring for the first project priority list resulted in almost one-half of the facilities clustering in Class C, which was the upgrade or rehabilitate existing delivery capability or existing facility design. This category alone included five types of projects. The projects might be: obtaining a new source of water, upgrading and rehabilitating the distribution system, upgrading or rehabilitating the storage facility, or treating the water or upgrading the treatment system for the water. WIFA realized that there are so many facilities that have upgrade or rehabilitation problems, that it seemed most fair to make two categories of Class C. This was done by splitting it into Classes C and D. Class C is intended to include upgrading or rehabilitating the existing delivery capability or existing design, but only as a result of a violation in the water system physical plant as documented by an ADEQ field engineer. This will place systems with documented violations, such as a consent order, to be classified ahead of systems without a documented violation. Since there is not enough money to fund all systems, WIFA believes this criteria is the most equitable way to distinguish need for upgrading or rehabilitating the system. Thus, Class D now contains the systems that need to be upgraded or rehabilitated, but not as a result of a documented violation.

Within each of the classifications, the broad class of “condition of the facilities and sources” was broken into acquiring, rehabilitating or developing sources, treatment upgrade or treatment expansion, upgrading or rehabilitating the distribution system, and upgrading or rehabilitating the storage facility. WIFA took 125 points previously assigned to condition of facility and sources, and reassigned 140 points as follows:

50 points maximum for acquiring, rehabilitating or developing sources;

30 points maximum for treatment upgrade or treatment expansion,

30 points maximum for rehabilitating or upgrading the distribution system,

30 points maximum for rehabilitating or upgrading the storage facility.

WIFA determined it reasonable to rank the need for a water source higher than a need for treatment/upgrade of a distribution system or storage facility. Absent enough water from the current source, the system can never come into compliance with sufficient water pressure, ability to deliver on an ongoing basis, and it may have some quality issues (filtration or chemical content). Therefore, the impact from this amendment would be to ensure those systems without sufficient water receive 50 points. It is probably reasonable to rate the other three conditions with the same number of points each because each relates to an element of the facility that would impact delivery of water. The cumulative impact of a facility without storage capability, an inadequate distribution system, and poor treatment could collectively rate it over 1 without adequate source water. With the prior point assignment, a system could receive up to 20 points for new source from a renewable source, whereas the amendment allows 30 points for acquiring, rehabilitating, or developing a new water source. Within the context of the 140 points, the change does not appear to substantially skew the point assignment. In fact, if the current priority list is recalculated, it appears that most of Class C, which is proposed to become Classes C and D, will probably be funded because many highly ranked facilities cannot be ready to proceed in this first year. Therefore, the overall impact of specifying the condition of the facility appears to better clarify the actual ranking, yet it does not appear to have prevented anyone in this class from being funded this year.

#### C. Potential Impacts on Regulated Industry

WIFA concluded that this rulemaking will impact the following regulated industries:

**(1) Drinking Water Facility** (A.R.S. § 49-371): a community water system or a nonprofit noncommunity water system as defined in the Safe Drinking Water Act (P.L. 93-523; 88 STAT. 1660; P.L. 95-190; 91 STAT. 1393; P.L. 104-182; 110 STAT. 1613) that is located in Arizona excluding water systems owned by federal agencies.

**(2) Wastewater Treatment Facility** (A.R.S. § 49-371): a facility as defined in the clean water act, located in this state which is designed to hold, cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the Clean Water Act.

**(3) Nonpoint Source Project** (A.R.S. § 49-371): a project designed to implement a certified water quality management plan or the nonpoint source program approved by the United States Environmental Protection Agency pursuant to section 319 of the Clean Water Act.

The impact to these industries will be in a beneficial manner even though there is a cost. WIFA emphasizes that although a cost is associated with obtaining a low-interest loan, it is a voluntary program to assist facilities that may otherwise find it very difficult, if not impossible, to obtain funding to come into compliance or correct a problem. Specifically, the regulated industry obtains the low-interest loan from WIFA based upon a need that impacts human health or the environment. The more immediate adverse affect on human health (e.g. arsenic in the drinking water), the greater the chance to receive a low-interest loan to correct the problem. In other words, WIFA loans money to correct problems.

Each regulated industry still needs to correct the problem whether funded by WIFA or a lending institution. Therefore, although a cost is incurred by each regulated industry, WIFA believes that the low-interest loan offers a less costly solution to a problem that must be corrected. Thus, the net impact upon the regulated industries represents a cost-savings benefit.

#### D. Social Impacts

This rulemaking is not expected to have a quantifiable social cost. This is because compliance by the regulated industry is not a requirement for the rule, but goal as a result of funding “out of compliance” facilities. It is not anticipated that the rule amendments will add any deadweight-welfare losses (policy changes that make people worse off), adjustment costs for displaced resources, or other business or market costs. Because WIFA does not anticipate any type of reduction in industry output, deadweight-welfare losses are expected to be zero, that is, because no net losses in consumers’ and producers’ surplus are anticipated. Finally, this rulemaking will not have an impact on state revenues.

The social cost to society (mainly Arizona residents) would be principally comprised of real-resource costs incurred by the regulated community. However, this is not a regulatory rule that adds new standards, it merely clarifies the point assessment for quantifying the need of a facility for funds. Compliance with the Clean Water Act and Safe Drinking Water Act is a goal as a result of the funding from WIFA. Other social costs include costs that will be incurred by WIFA (implementing agency). WIFA will continue to perform its mission, that is, public financing, however, this rule will clarify procedures and classifying need, thereby enabling WIFA to better inform the affected facilities. Rule development costs should not be included in an EIS because they represent sunk costs once a rulemaking is effective.

WIFA expects both direct and indirect social benefits to accrue as a result of the cost-saving benefits. For example, WIFA's ability to provide low-interest loans to the regulated entities means that construction or repairs previously not affordable can now be accomplished. Although this may appear to be new revenue, it is revenue producing activity that was already required and not completed due to a lack of resources. Although the cost of funding probably will be passed onto the beneficiaries, the consumers, in the form of a rate increase, this cost should not be considered a result of this rulemaking. However, the consumers will benefit by protection of human health and the environment (which was previously not achievable), as well as less of a rate increase than if funded by a conventional bank. This has the potential to improve the protection of human health and the environment which is expected to have a positive social impact.

#### E. Anticipated Impacts on Employment, Revenues, and Expenditures

This rulemaking is not expected to impact short- or even long-run employment, production, or revenues. This conclusion applies to both private and public sectors. Because of the nature of this rulemaking, WIFA expects in output, no increases or decreases in employment, or expenditures. WIFA does not expect any facilities to be funded who might otherwise would not have been funded, nor does WIFA expect any facility that would have been funded to lose any possible ability to be funded. The only measurable change from this rule is that a facility that was ranked in Class C, might fall into Class D if not funded this past year, and if it was a part of a multi-year funded project, it will not automatically be placed in Class A. Secondary economic effects on employment and other factors (e.g., city, town and regional areas, energy, capital availability, and trade), whether they are likely or not to exist, have not been considered in this EIS. Finally, WIFA does not expect any administrative burden arising from this rulemaking. Thus, no additional FTEs will be required as a result of this rulemaking.

#### F. General Impact on Small Businesses and Reduction of Impacts

WIFA is authorized to provide low-interest loans only to small businesses that are drinking water facilities. Since this rule is not regulatory in nature, the only evaluation for the general impact on small business is "How can WIFA reduce any impacts from the rule." WIFA believes that it already reduces the potential impact on small business by providing to each facility all the research and preparation of information for obtaining a loan. The facility merely fills out a two page document that identifies who they are, what the general perceived need is, and how much money is requested (the amount

of money is initially optional, because WIFA will help generate that figure). Then WIFA researches the demographics of the revenue base to determine the facility's ability to repay the loan, and it provides technical assistance to help design a cost-effective solution. After a solution has been selected and an amount determined, WIFA assists with any voter authorization, for example, ballot preparation and public notice. Upon receipt of voter authorization, the project is most likely "ready to proceed." Therefore, WIFA is available throughout the process to assist a facility especially a small business facility that has never taken on this kind of project.

WIFA's revolving fund is targeted to help small businesses and small communities, because those entities tend to have the smallest user base and as a result have not been able to upgrade or rehabilitate their system. Therefore the general impact is a greater availability to affordable loans for improving drinking water facilities. Wastewater treatment facilities are owned and operated by political subdivisions and therefore excluded from this section.

#### G. Alternative Rulemaking Provisions

WIFA has the ability to reduce impacts on political subdivisions by forgiving the principal on loans from the drinking water revolving fund. It would be helpful if WIFA could provide forgivable principal to the private sector drinking water facilities, however the Arizona Constitution does not allow subsidy by government to the private sector. Therefore, forgivable principal as a reduced impact on small business is not a lawful alternative.

WIFA has the ability to pass administration costs for the low-interest loans onto the regulated entity. To reduce impacts to small business, WIFA currently shares the administrative costs especially with small businesses. WIFA could absorb all administrative costs, however, WIFA is expressly limited to 4% of the aggregate of federal capitalization grants (A.R.S. § 49-374(A)(4), and the 43rd Legislature disallowed the 1997 appropriation to be used for administering the fund). Therefore, WIFA may not legally absorb all administrative costs to reduce the impact on small business.

WIFA has designed a one page application to specifically assist small businesses. WIFA has also reduced the impact of providing information for obtaining a loan specifically to assist small businesses, thereby creating a level playing field for all applicants. For example, if the city of Phoenix applied for a loan, it would probably have information about the median household income, statistics on demographics and other information readily available to inform WIFA of their

community. To maintain a level playing field during the application process, WIFA obtains all statistical information, demographic information, and any other public information for the applicant, thereby minimizing the effort on small businesses and small communities.

I. The probable costs and benefits to the political subdivisions directly affected.

The political subdivisions directly affected include wastewater treatment facilities, nonpoint source projects, and drinking water facilities. These facilities are impacted in the same manner as small business in that they can now solve problems with lower interest loans which means a benefit to their ratepayers. In the case of a political subdivision that may receive a low-interest loan from the drinking water revolving fund, WIFA may forgive the principal (see the Safe Drinking Water Act). Forgivable principal is done in the form of negative interest. The cost from this decision is a reduction in the revolving fund, but the benefit is expected to be improved compliance and continued operation and maintenance of the system. WIFA does not intend to deplete the revolving fund by loaning it out and then forgiving all the principal. WIFA intends to use this option in the instance that it can benefit the facility long term and without a negative impact on the fund.

J. The probable cost-benefit to government agencies.

The Arizona Corporation Commission (ACC) is minimally affected by these rules because the private drinking water facilities must request a rate increase from the ACC to ensure payment of the loan. However, WIFA believes this to be a minimal impact because ACC is trying to streamline the approval process, and political subdivisions must have voter or petitioner authorization to go into debt, therefore the same type of a process exists for any facility that enters an agreement to borrow and repay low-interest loans with WIFA.

K. Data limitations and methods employed to attempt to obtain data if adequate data were not available.

WIFA knows the universe of drinking water facilities because they must submit information about the facility to ADEQ. It is estimated that there are 1800 drinking water facilities of which 49 are small businesses. WIFA was able to mail personal invitations to each known facility for the workshops and the oral proceedings. Due to the attendance of more than 400 people, it is believed that a large number of facilities were reached regarding this rulemaking. Most data were

obtained by inquiry of the people invited to the workshops, therefore a representative sample is believed to have been used for making decisions regarding this rulemaking. However, no data were provided to WIFA from any regulated industry regarding additional costs as a result of these changes.

L. The probable benefits outweigh the probable costs.

This rulemaking is atypical for a government agency, because most government agencies are in the business of education, compliance, and enforcement. A goal of WIFA is to provide low-interest loans, which will in all cases trigger an increased rate for the consumer, however, it is believed that the rate will be lower than could have been achieved by any other alternative method except a grant. This rulemaking amends the low-interest loan program, therefore a rate increase is not expected due to these rules. Replenishment of the fund is necessary to continue the loan program. The Safe Drinking Water Act does allow for up to 15% of the grant money received from Congress to be used in a grant manner. WIFA will endeavor to match this money to recipients who are able to receive and use the money immediately. The 15% is a set aside only for drinking water facilities that supply water to fewer than 10,000 people. Therefore, it is a limited grant. At this time, there are very few other grants being given, therefore it is believed this program's benefits outweigh the costs.

9. **A description of the changes between the proposed rules, including supplemental notices, and final rules:**

Due to the amendments in the proposed rule, that is the underline and strikeout, all changes made after proposal and prior to the final rulemaking are noted in **bold**.

ISSUE: WIFA on its own determined that a definition of MBE, WBE, SBRA Reporting would be helpful to the reader.

CONCLUSION: R18-15-101 was amended as follows:

29. “MBE, WBE, SBRA Reporting” means identifying and documenting **Minority Owned Businesses, Women Owned Businesses, and Small Business Enterprise in a Rural Area** each minority business enterprise, women owned business enterprise, and small business in a rural area that ~~participate~~ **participates** in a contract funded in whole or in part by WIFA.

ISSUE: WIFA on its own determined that the usage of “service area” within the rule needed a definition.

CONCLUSION: R18-15-101 was amended by adding the following definition:

38. **“Service area” means the area within a municipality’s boundaries, or the boundaries of a municipal, sanitary, irrigation, or county improvement district (for wastewater treatment or drinking water facilities), or is the area served by either a public service corporation (as defined in Article 15, Section 2 of the Arizona Constitution) or a homeowners association.**

ISSUE: WIFA on its own determined that Class C, violations of the physical plant should be documented by an ADEQ field engineer.

ANALYSIS: Some, but not all violations of the physical plant are brought to the attention of ADEQ. WIFA believes that violations requiring ADEQ’s attention deserve a higher priority. Therefore, the notation that the violation be documented by ADEQ (see the bold, underlined language) was added to screen out minor violations.

CONCLUSION: The amendment to R18-15-305(E) is in bold below:

R18-15-305. Drinking Water Revolving Fund Priority Classes

E. Class C -- The Board may designate a project as Priority Class C if the goal of the project is to upgrade or rehabilitate existing delivery capability or existing facility design in accordance with the Safe Drinking Water Act Amendments for all drinking water facilities that have violations in the water system physical plant as documented by an ADEQ field engineer.

ISSUE: WIFA on its own determined that the point assignment for the distribution system, hydropneumatic tank, and the storage facility was inconsistent with other point assignments.

ANALYSIS: The general rule for point assignment is to give the most points to serve an existing service area and the fewest points or no points for growth. Therefore, R18-15-306 subsections (C), (D), (E) and (F) are amended in the following ways.

Federal funding for the Drinking Water Revolving Fund is not to be used for any growth and development. Growth and development means an area where property has not been developed and is not a part of the existing service area. It is acceptable to assist systems that were underbuilt, that is they were not designed to provide service to the existing service area. It is also acceptable to assist a system that expands its service area to help

an adjacent area that is already populated to improve their water delivery system. For example, some service areas expand because their neighbors are hauling water, when they are able to pipe water to them. However, it is not acceptable to use federal funds for growth and development, that is an area that is not populated. Therefore, 5 points that was previously assigned for growth is now reduced to zero.

Subsections (C), (D), (E), and (F) were also amended to remove any reference to “current growth”, and the modifier “future” from growth. This results in only one reference to “growth.” Current growth was intended to address growth within the area of the Certificate of Convenience and Necessity, however, WIFA believes that the service to the existing service area includes what was previously referred to as “current growth.” Review of this section revealed a misuse of the term “method.” In most cases, method was used for the word “item”, therefore, “method” has been deleted from each subsection except for R18-15-306(D). WIFA discovered the same term was described in two different ways, that is “current service area” and “existing service area” were used to mean the same thing. All references to “current service area” have been amended to us “existing service area”.

CONCLUSION: R18-15-306(C), R18-15-306(D), R18-15-306(E), and R18-15-306(F) were amended as follows:

- C. ~~Condition of Facility and Source (CFS) -- If an applicant is seeking financial assistance to construct, upgrade, or rehabilitate~~ Acquiring, Rehabilitating, or Developing Sources of a drinking water facility ~~(ARD) -- the~~ The Board shall award ~~CFS~~ ARD points up to a maximum of ~~125~~ 50 points as follows:
1. ~~20 points to secure at least 51% of new eligible source capacity with a renewable source or 10 points to secure at least 51% of new eligible source capacity with a non-renewable source.~~
  2. ~~20 points to construct, upgrade, or rehabilitate a component of the water treatment facility, other than disinfection equipment.~~
  3. ~~20 points to upgrade or rehabilitate capacity of an existing eligible storage, pumping, or distribution facility.~~
  4. ~~20 points to upgrade or rehabilitate existing, required disinfection equipment.~~

- 5. ~~15 points to protect an existing water source from an existing or future contamination threat, the project having been funded under 42 U.S.C. § 300j.~~
- 6. ~~15 points to upgrade or rehabilitate an existing well or spring box.~~
- 7. ~~10 points to repair an existing transmission or distribution system.~~
- 8. ~~5 points to reduce a taste, odor or corrosion problem at an existing facility.~~  
20 points to secure at least 51% of new eligible source capacity with a renewable source or  
10 points to secure at least 51% of new eligible source capacity with a non-renewable source.
- 2. Acquire, rehabilitate, or develop a water source to serve the following for a maximum of 30 points as follows:
  - a. 30 points ~~to serve current for an existing~~ service area because the current source is contaminated or depleted.
  - b. 15 points ~~to serve for an~~ expanded service area because the new area has contaminated or insufficient water.
  - c. 5 0 points ~~to serve future for~~ growth.

**D.** Treatment Upgrade(either surface water or ground water but not both) or Treatment Expansion (excluding Upgrade and Expand) (TUE) -- The Board shall award TUE points up to a maximum of 30 points as follows:

- 1. Treatment Upgrade of either surface or ground water by 1 of the following methods for a total of 30 points:
  - a. Upgrade surface water by 1 of the following methods:
    - I. 30 points for treatment of micro-organisms.
    - ii. 20 points for treatment of chemical constituents that would be harmful if people are exposed to them.
    - iii. 10 points for treatment of chemical constituents that are not harmful if people are exposed to them.
  - b. Upgrade ground water by 1 of the following methods:
    - I. 30 points for treatment with chlorination.

- ii. 20 points for treatment of chemical constituents that would be harmful if people are exposed to them.
- iii. 10 points for treatment of chemical constituents that are not harmful if people are exposed to them.

**E** Distribution System (DS) -- The Board shall award DS points up to a maximum of 30 points ~~by 1 of the following methods~~ as follows:

1. 30 points maximum for rehabilitation, replacement, or repair of existing lines with inadequate line size or inadequate pressure ~~by 1 of the following as follows: methods~~
  - a. 30 points for ~~service to~~ an existing service area.
  - b. 25 points for ~~service to~~ an expanded service area where the new area has poor quality water.
  - ~~c. 10 points for service for current growth.~~
  - ~~dc. 50 points for service for future for growth.~~
2. 30 points maximum for the rehabilitation, replacement, or repair of existing lines ~~by 1 of the following methods~~ as follows:
  - a. 30 points for leaks.
  - b. 25 points for wrong materials or inadequate design.
  - c. 20 points for insufficient depth of lines.
3. 25 points maximum for the installation of new lines ~~by 1 of the following methods~~ as follows:
  - a. 25 points to install new lines to loop an existing service area.
  - b. 25 points to install new lines ~~to service for~~ an existing service area.
  - c. 20 points to install new lines ~~to service for~~ an expanded service area because the new area has poor quality ~~or no~~ water.
  - ~~d. 10 points to install new lines to service current growth.~~
  - ~~ed. 50 points to install new lines to service future for growth.~~

4. 30 points maximum to rehabilitate, replace, or repair a hydropneumatic tank as follows.
  - a. 30 points for a hydropneumatic tank that serves an existing service area.
  - ~~b. 25 points for a hydropneumatic tank that serves current growth.~~
  - eb.** 20 points for a hydropneumatic tank that serves an expanded service area.

**F.** Storage Facility (SF) --The Board shall award SF points up to a maximum of 30 points ~~1 of the following methods~~ as follows:

1. 30 points for no storage.
2. 25 points maximum to rehabilitate storage or inadequate storage or inadequate pressure ~~by 1 of the following methods~~ as follows:
  - a. 25 points for inadequate design of the storage facility.
  - b. 20 points for ~~service to~~ an existing ~~service~~ area.
  - c. 15 points for ~~service to~~ an expanded ~~service~~ area because the new area has poor quality water.
  - ~~d. 10 points for service for current growth.~~
  - ed.** 50 points ~~for service for future~~ for growth.
3. 25 points maximum for expanded storage ~~by 1 of the following methods~~ as follows:
  - a. 25 points for ~~service to~~ an existing ~~service~~ area.
  - b. 20 points for ~~service to~~ an expanded ~~service~~ area because the new area has poor quality water.
  - ~~c. 10 points for service for current growth.~~
  - dc.** 50 points ~~for service for future~~ for growth.

ISSUE: WIFA in conjunction with the GRRC Staff made the following corrections to enhance the clarity of the rule.

CONCLUSION: R18-15-108(E), R18-15-110, R18-15-111, R18-15-206(K), R18-15-207(B), R18-15-304(G), R18-13-306(K), R18-15-307(B), R18-15-403(C) were amended as follows:

R18-15-108(E)

**E.** The Board shall bypass a project within a fiscal year and offer funding to the next highest ranking project on the project priority list if either **one 1** of the following occurs:

R18-15-110

To ensure compliance with all Arizona statutes and federal requirements for funding the project, the applicant shall submit bid documents for review and comment by the Authority prior to the ~~releasing~~ release of the documents to prospective bidders or contractors.

R18-15-111(A)

**A.** The Authority shall ensure that disbursements are consistent with the financial assistance agreement and incurred project expenses. ~~Disbursement~~The Authority shall honor disbursement requests if the disbursements are consistent with the financial assistance agreement and ~~they are~~ within 10 percent % of the project dollar disbursement schedule agreed to by both parties at the beginning of the contract, or the amended schedule based upon prior Board approval.

R18-15-111 (E), (F)

**E.** Each disbursement request ~~must shall~~ include copies of invoices, canceled checks, or ~~some other document documents to that~~ show proof of payment.

**F.** The Authority shall not process the last substantial reimbursement request for construction funds reimbursement ~~shall not be processed~~ for payment until all required facility permits are in place. The last substantial reimbursement request is defined as follows:

R18-15-206

**K.** After scoring within each class, ~~the Board shall rank~~ tied scores ~~shall be ranked~~ by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection.

R18-15-207(B)

2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement

Code, A.R.S. ~~§§ 41-2501 et seq.~~ **Title 41, Chapter 23.**

R18-15-304(G)

- G.** The Board shall make additions or modifications to the Priority List when ~~at~~ 1 or more of the following conditions ~~are is~~ are met:

R18-15-306(K)

- K.** After scoring within each class, the Board shall rank tied scores shall be ranked by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection.

R18-15-307(B)

2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. ~~§§ 41-2501 et seq.~~ **Title 41, Chapter 23.**

R18-15-403(C)

2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. ~~§§ 41-2501 et seq.~~ **Title 41, Chapter 23.**

ISSUE: WIFA in conjunction with the GRRRC Staff found that “may” was used in a requirement for project construction, which was inconsistent with the Clean Water Revolving Fund requirement.

CONCLUSION: R18-15-207 was amended as follows:

- A. WIFA ~~may~~ shall withhold all construction funding until the Department issues an approval to construct for the applicant.

ISSUE: WIFA on its own discovered that the section title for R18-15-107 did not match the title found in the text of the rule. The title in the table of contents reads “Environmental Review Process”, whereas the title in the text of the rule reads “Environmental Review.”

CONCLUSION: The title in the table of contents was amended as follows:

R18-15-107. Environmental Review ~~Process~~

**10. A summary of the principal comments and the agency response to them:**

There were no written or oral comments received for this rulemaking. The changes made after the rule was proposed came about during discussions by the WIFA staff with the Region IX EPA and the Board.

**11. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules.** Not applicable.

**12. Incorporations by reference and their location in the rules.** Not applicable.

**13. Was the rule previously adopted as an emergency rule?** No.

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

**TITLE 18. ENVIRONMENTAL QUALITY**

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

**ARTICLE 1. MANAGEMENT**

R18-15-101.	Definitions
R18-15-107.	Environmental Review <del>Process</del>
R18-15-108.	Readiness to Proceed
<u>R18-15-110.</u>	<u>Bid Document Review</u>
<del>R18-15-110</del> <u>R18-15-111.</u>	Disbursements and Repayments
<del>R18-15-111</del> <u>R18-15-112.</u>	Administration
<del>R18-15-112</del> <u>R18-15-113.</u>	Disputes

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

R18-15-201.	Types of Financial Assistance Available
R18-15-202.	Eligibility Requirements for Financial Assistance
R18-15-204.	Clean Water Revolving Fund Priority List
R18-15-206.	Clean Water Revolving Fund Priority List Ranking Criteria
R18-15-207.	Project Construction

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

R18-15-304.	Drinking Water Revolving Fund Priority List
R18-15-305.	Drinking Water Revolving Fund Priority Classes
R18-15-306.	Drinking Water Revolving Fund Priority List Ranking Criteria
R18-15-307.	Project Construction

**ARTICLE 4. OTHER FINANCIAL ASSISTANCE**

R18-15-403.	Project Construction
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**TITLE 18. ENVIRONMENTAL QUALITY**

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

**ARTICLE 1. MANAGEMENT**

**R18-15-101. Definitions**

*No Change*

1. *No Change*
2. *No Change*
3. *No Change*
4. *No Change*
5. *No Change*
6. *No Change*
7. *No Change*
8. *No Change*
9. *No Change*
10. *No Change*
11. *No Change*
12. *No Change*
13. *No Change*
14. *No Change*
15. *No Change*
16. *No Change*
17. *No Change*
18. *No Change*
19. *No Change*
20. *No Change*
21. *No Change*
22. *No Change*

23. *No Change*
24. *No Change*
25. *No Change*
26. *No Change*
27. *No Change*
28. *No Change*
- a. *No Change*
- b. *No Change*
- c. *No Change*
- d. *No Change*
29. “MBE, WBE, SBRA Reporting” means identifying and documenting each minority business enterprise, women owned business enterprise, and small business in a rural area that participates in a contract funded in whole or in part by WIFA.
- ~~29~~30. *No Change*
- ~~30~~31. *No Change*
- ~~31~~32. *No Change*
- ~~32~~33. *No Change*
- ~~33~~34. *No Change*
- ~~34~~35. *No Change*
- ~~35~~36. *No Change*
- ~~36~~37. *No Change*
38. “Service area” means the area within a municipality’s boundaries, or the boundaries of a municipal, sanitary, irrigation, or county improvement district (for wastewater treatment or drinking water facilities), or is the area served by either a public service corporation (as defined in Article 15, Section 2 of the Arizona Constitution) or a homeowners association.
- ~~37~~39. *No Change*
- ~~38~~40. *No Change*

3941. *No Change*

**R18-15-107. Environmental Review**

**A.** *No Change*

**B.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

**C.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

5. *No Change*

6. *No Change*

**D.** *No Change*

**E.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

d. *No Change*

5. *No Change*

6. *No Change*

**F.** *No Change*

1. *No Change*
  - a. *No Change*
  - b. *No Change*
  - c. *No Change*
  - d. *No Change*
2. *No Change*

**G.** *No Change*

1. *No Change*
2. *No Change*
  - a. *No Change*
  - b. *No Change*
  - c. *No Change*
  - d. *No Change*
3. *No Change*
4. *No Change*
  - a. *No Change*
  - b. *No Change*
  - c. *No Change*
  - d. *No Change*
  - e. A determination of consistency with the Certified Water Quality Management Plan, if applicable.
  - f. *No Change*

**H.** *No Change*

**I.** *No Change*

**J.** *No Change*

1. *No Change*

2. *No Change*
3. *No Change*
4. *No Change*
5. *No Change*
6. *No Change*

**R18-15-108. Readiness to Proceed**

**A.** *No Change*

**B.** *No Change*

1. *No Change*
2. *No Change*
  - a. *No Change*
    - i. *No Change*
    - ii. *No Change*
    - iii. *No Change*
    - iv. *No Change*
  - b. *No Change*
3. *No Change*
  - a. *No Change*
  - b. *No Change*
4. *No Change*
  - a. *No Change*
  - b. *No Change*
5. *No Change*
  - a. *No Change*
  - b. *No Change*
6. *No Change*

- a. *No Change*
- b. *No Change*

C. *No Change*

D. *No Change*

**E.** The Board shall bypass a project within a fiscal year and offer funding to the next highest ranking project on the project priority list if either 1 of the following occurs:

- 1. The Board determines that substantial progress has not been made on a project toward being ready to proceed within 8 months of notification from WIFA that the project is within the fundable range of projects for that fiscal year; or
- 2. The Board determines that the project will not be ready to proceed within the current fiscal year.

**R18-15-110.** **Bid Document Review**

To ensure compliance with all Arizona statutes and federal requirements for funding the project, the applicant shall submit bid documents for review and comment by the Authority prior to the release of the documents to prospective bidders or contractors.

**~~R18-15-110~~R18-15-111.** **Disbursements and Repayments**

A. The Authority shall ensure that disbursements are consistent with the financial assistance agreement and incurred project expenses. The Authority shall honor disbursement requests if the disbursements are consistent with the financial assistance agreement and within 10% of the project dollar disbursement schedule agreed to by both parties at the beginning of the contract, or the amended schedule based upon prior Board approval.

B. *No Change*

C. *No Change*

**D.** Each disbursement request shall be on the forms provided by the Authority. Each disbursement request shall include a certification and signature document, a cost incurred report, and a MBE, WBE, SBRA report. All disbursement forms shall be completely filled out before the disbursement can be processed by the Authority.

**E.** Each disbursement request shall include copies of invoices, canceled checks, or other documents that show proof of payment.

**F.** The Authority shall not process the last substantial reimbursement request for construction funds reimbursement for payment until all required facility permits are in place. The last substantial reimbursement request is defined as follows:

1. 10% of the contract amount on a contract less than \$1,000,000;
2. 5% of the contract amount on a contract greater than or equal to \$1,000,000 and less than \$5,000,000;
3. 2% of the contract amount on a contract greater than or equal to \$5,000,000.

**~~R18-15-111~~ R18-15-112. Administration**

**A.** *No Change*

**B.** *No Change*

**~~R18-15-112~~ R18-15-113. Disputes**

**A.** *No Change*

**B.** *No Change*

**C.** *No Change*

**ARTICLE 2. CLEAN WATER REVOLVING FUND**

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

- A. *No Change*
- B. *No Change*
- C. *No Change*
- D. *No Change*
- E. *No Change*
- F. *No Change*
- G. The Board shall make additions or modifications to the Priority List when 1 or more of the following conditions are met:
  - 1. The project meets the criteria for Priority Class A specified in R18-15-205(B).
  - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects or needed to support financial arrangements made to sell bonds for the state match.
  - 3. The additions or modifications are made by the Board at a public meeting.
  - 4. Additional funds are made available.
- H. *No Change*
  - 1. *No Change*
  - 2. *No Change*
  - 3. *No Change*
  - 4. *No Change*
- I. *No Change*

**R18-15-206. Clean Water Revolving Fund Priority List Ranking Criteria**

- A. *No Change*
- B. *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

**C.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

5. *No Change*

6. *No Change*

7. *No Change*

**D.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

5. *No Change*

**E.** *No Change*

1. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

d. *No Change*

2. *No Change*

**F.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

**G.** *No Change*

1. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

d. *No Change*

e. *No Change*

2. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

3. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

4. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

**H.** *No Change*

1. *No Change*

2. *No Change*

3. *No Change*

4. *No Change*

**I.** *No Change*

1. *No Change*
2. *No Change*
3. *No Change*
4. *No Change*

**J.** *No Change*

**K.** After scoring within each class, the Board shall rank tied scores by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection.

**R18-15-207. Project Construction**

**A.** ~~The Department shall not issue an Approval to Construct to an applicant or recipient until all of the following have occurred:~~

- ~~1. An on-site inspection by the Department.~~
- ~~2. The development by the applicant or recipient of a sludge management use and disposal plan.~~
- ~~3. A review of all set-back requirements by the Department.~~

WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.

**B.** *No Change*

1. *No Change*
2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ ~~41-2501~~ Title 41, Chapter 23.
3. *No Change*
  - a. *No Change*
  - b. *No Change*
    - i. *No Change*
    - ii. *No Change*
    - iii. *No Change*

- iv. *No Change*
- v. *No Change*
- vi. *No Change*

**C.** *No Change*

- 1. *No Change*
- 2. *No Change*

**D.** *No Change*

- 1. *No Change*
- 2. *No Change*
- 3. *No Change*
- 4. *No Change*

**E.** *No Change*

**ARTICLE 3. DRINKING WATER REVOLVING FUND**

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

- A. *No Change*
- B. *No Change*
- C. *No Change*
- D. *No Change*
- E. *No Change*
- F. *No Change*
- G. The Board shall make additions or modifications to the Priority List when all 1 or more of the following conditions are met:
  - 1. *No Change*
  - 2. *No Change*
  - 3. Additional funds are made available
- H. *No Change*
  - 1. *No Change*
  - 2. *No Change*
  - 3. *No Change*
  - 4. *No Change*
- I. *No Change*

**R18-15-305. Drinking Water Revolving Fund Priority Classes**

- A. *No Change*
- B. *No Change*
  - 1. *No Change*
  - 2. *No Change*
  - 3. *No Change*

4. *No Change*
  5. *No Change*
- C.** Class A: Continuing Construction Projects -- In addition to R18-15-305(B), the Board may designate a project as Priority Class A if the project received funding in a prior fiscal year, the Board entered into a multi fiscal year funding commitment with the applicant, the Board designated the project as Priority Class A, Priority Class B, or Priority Class C in a prior fiscal year, and the project received at least 20 points under ~~R18-15-306(E)~~ R18-15-306(H).
- D.** *No Change*
1. *No Change*
  2. *No Change*
  3. *No Change*
  4. *No Change*
  5. *No Change*
- E.** Class C -- The Board may designate a project as Priority Class C if the goal of the project is to upgrade or rehabilitate existing delivery capability or existing facility design in accordance with the Safe Drinking Water Act Amendments for all drinking water facilities that have violations in the water system physical plant as documented by an ADEQ field engineer.
- F.** Class D -- The Board may designate a project as Priority Class D if the goal of the project is to upgrade or rehabilitate existing delivery capability or existing facility design in accordance with the Safe Drinking Water Act Amendments for all drinking water facilities that require rehabilitation or upgrades that are not a result of violations.
- FG.** Class ~~DE~~ -- The Board may designate a project as Priority Class ~~DE~~ if the goal of the project is to consolidate or regionalize service of previously separate drinking water facilities.
- GH.** Class ~~EF~~ -- The Board may designate a project which does not receive a designation ~~pursuant to subsections (B) through (F)~~ of Class A through Class E, as Priority Class ~~EF~~.

**R18-15-306. Drinking Water Revolving Fund Priority List Ranking Criteria**

A. The Board shall rank projects within priority classes using priority values obtained from the following formula:

$$PV = HC + \cancel{CFS} \underline{ARD} + TUE + DS + SF + LFC + PYF + CR \text{ where:}$$

PV = Priority Value

HC = Health Criteria

~~CFS = Condition of Facilities and Sources~~

ARD = Acquiring, Rehabilitating, or Developing Sources

TUE = Treatment Upgrade or Treatment Expansion

DS = Distribution System

SF = Storage Facility

LFC = Local Fiscal Capacity

PYF = Prior Year Funding

CR = Consolidation and Regionalization

B. *No Change*

1. *No Change*
2. *No Change*
3. *No Change*
4. *No Change*

C. ~~Condition of Facility and Source (CFS) -- If an applicant is seeking financial assistance to construct, upgrade, or rehabilitate~~ Acquiring, Rehabilitating, or Developing Sources of a drinking water facility (ARD) ~~--the~~ The Board shall award ~~CFS~~ ARD points up to a maximum of ~~125~~ 50 points as follows:

1. ~~20 points to secure at least 51% of new eligible source capacity with a renewable source or 10 points to secure at least 51% of new eligible source capacity with a non-renewable source.~~
2. ~~20 points to construct, upgrade, or rehabilitate a component of the water treatment facility, other than disinfection equipment.~~
3. ~~20 points to upgrade or rehabilitate capacity of an existing eligible storage, pumping, or~~

~~distribution facility.~~

4. ~~20 points to upgrade or rehabilitate existing, required disinfection equipment.~~
  5. ~~15 points to protect an existing water source from an existing or future contamination threat, the project having been funded under 42 U.S.C. § 300j.~~
  6. ~~15 points to upgrade or rehabilitate an existing well or spring box.~~
  7. ~~10 points to repair an existing transmission or distribution system.~~
  8. ~~5 points to reduce a taste, odor or corrosion problem at an existing facility.~~  
20 points to secure at least 51% of new eligible source capacity with a renewable source or 10 points to secure at least 51% of new eligible source capacity with a non-renewable source.
2. Acquire, rehabilitate, or develop a water source to serve the following for a maximum of 30 points as follows:
- a. 30 points for an existing service area because the current source is contaminated or depleted.
  - b. 15 points for an expanded service area because the new area has contaminated or insufficient water.
  - c. 0 points for growth.

**D.** Treatment Upgrade(either surface water or ground water but not both) or Treatment Expansion (excluding Upgrade and Expand) (TUE) -- The Board shall award TUE points up to a maximum of 30 points as follows:

1. Treatment Upgrade of either surface or ground water by 1 of the following methods for a total of 30 points:
  - a. Upgrade surface water by 1 of the following methods:
    - i. 30 points for treatment of micro-organisms.
    - ii. 20 points for treatment of chemical constituents that would be harmful if people are exposed to them.
    - iii. 10 points for treatment of chemical constituents that are not harmful if

people are exposed to them.

- b. Upgrade ground water by 1 of the following methods:
  - i. 30 points for treatment with chlorination.
  - ii. 20 points for treatment of chemical constituents that would be harmful if people are exposed to them.
  - iii. 10 points for treatment of chemical constituents that are not harmful if people are exposed to them.

**E.** Distribution System (DS) -- The Board shall award DS points up to a maximum of 30 points as follows:

- 1. 30 points maximum for rehabilitation, replacement, or repair of existing lines with inadequate line size or inadequate pressure as follows:
  - a. 30 points for an existing service area.
  - b. 25 points for an expanded service area where the new area has poor quality water.
  - c. 0 points for growth.
- 2. 30 points maximum for the rehabilitation, replacement, or repair of existing lines as follows:
  - a. 30 points for leaks.
  - b. 25 points for wrong materials or inadequate design.
  - c. 20 points for insufficient depth of lines.
- 3. 25 points maximum for the installation of new lines as follows:
  - a. 25 points to install new lines to loop an existing service area.
  - b. 25 points to install new lines for an existing service area.
  - c. 20 points to install new lines for an expanded service area because the new area has poor quality or no water.
  - d. 0 points to install new lines for growth.
- 4. 30 points maximum to rehabilitate, replace, or repair a hydropneumatic tank as follows.
  - a. 30 points for a hydropneumatic tank that serves an existing service area.

b. 20 points for a hydropneumatic tank that serves an expanded service area.

**F.** Storage Facility (SF) --The Board shall award SF points up to a maximum of 30 points as follows:

1. 30 points for no storage.

2. 25 points maximum to rehabilitate storage or inadequate storage or inadequate pressure as follows:

a. 25 points for inadequate design of the storage facility.

b. 20 points for an existing service area.

c. 15 points for an expanded service area because the new area has poor quality water.

d. 0 points for growth.

3. 25 points maximum for expanded storage as follows:

a. 25 points for an existing service area.

b. 20 points for an expanded service area because the new area has poor quality water.

c. 0 points for growth.

**DG.** *No Change*

1. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

d. *No Change*

e. *No Change*

2. *No Change*

a. *No Change*

b. *No Change*

c. *No Change*

3. *No Change*

- a. *No Change*
- b. *No Change*
- c. *No Change*
- 4. *No Change*
  - a. *No Change*
  - b. *No Change*
  - c. *No Change*

**EH.** *No Change*

- 1. *No Change*
- 2. *No Change*
- 3. *No Change*
- 4. *No Change*

**FL.** *No Change*

- 1. *No Change*
- 2. *No Change*
- 3. *No Change*
- 4. *No Change*

**GJ.** *No Change*

**K.** After scoring within each class, the Board shall rank tied scores by placing the lowest cost effectiveness ratio project above all other tied projects in the class. The cost effectiveness ratio means the project dollars per benefitting connection.

**R18-15-307. Project Construction**

- A. ~~The Department shall not issue an Approval to Construct to an applicant or recipient until the Department has conducted an on-site inspection. WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.~~
- B. *No Change*

1. *No Change*
2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. ~~§§ 41-2501~~ Title 41, Chapter 23.
3. *No Change*
  - a. *No Change*
  - b. *No Change*
    - i. *No Change*
    - ii. *No Change*
    - iii. *No Change*
    - iv. *No Change*
    - v. *No Change*
    - vi. *No Change*

**C.** *No Change*

1. *No Change*
2. *No Change*

**D.** *No Change*

1. *No Change*
2. *No Change*
3. *No Change*
4. *No Change*

**E.** *No Change*

**ARTICLE 4. OTHER FINANCIAL ASSISTANCE**

**R18-15-403. Project Construction**

- A. *No Change*
- B. The Department shall not issue an Approval to Construct to an applicant or recipient until the Department has conducted an on-site inspection. If applicable, WIFA shall withhold all construction funding until the Department issues an approval to construct for the applicant.
- C. *No Change*
  - 1. *No Change*
  - 2. All contracts, subagreements, and force account work are consistent with the Arizona Procurement Code, A.R.S. §§ ~~41-2501~~ Title 41, Chapter 23.
  - 3. *No Change*
    - a. *No Change*
    - b. *No Change*
      - i. *No Change*
      - ii. *No Change*
      - iii. *No Change*
      - iv. *No Change*
      - v. *No Change*
      - vi. *No Change*
- D. *No Change*
  - 1. *No Change*
  - 2. *No Change*
- E. *No Change*
  - 1. *No Change*
  - 2. *No Change*
  - 3. *No Change*

4. *No Change*

**F.** *No Change*