

NOTICES OF FINAL RULEMAKING

The Administrative Procedure Act requires the publication of the final rules of the state's agencies. Final rules are those which have appeared in the *Register* first as proposed rules and have been through the formal rulemaking process including approval by the Governor's Regulatory Review Council or the Attorney General. The Secretary of State shall publish the notice along with the Preamble and the full text in the next available issue of the *Register* after the final rules have been submitted for filing and publication.

NOTICE OF FINAL RULEMAKING

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

Editor's Note: The following Notice of Final Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 3, 2009.

[R10-123]

PREAMBLE

1. Sections Affected

R12-1-1438
R12-1-1438.01
R12-1-1439

Rulemaking Action

Amend
New Section
Amend

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

Authorizing Statute: A.R.S. § 30-654(B)(5)

Implementing Statutes: A.R.S. §§ 30-651, 30-654, 30-657, 30-671(B), 30-672, 30-673, 30-681, 30-687, 30-688, 30-689, 32-516, 32-3231, 32-3232, 32-3233, and 32-3234

3. The effective date of the rules:

August 10, 2010

The Agency is requesting an immediate effective date under A.R.S. § 41-1032(A) to preserve public peace, health, or safety.

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

Notice of Rulemaking Docket Opening: 14 A.A.R. 4112, October 31, 2008

Notice of Rulemaking Docket Opening: 15 A.A.R. 2148, December 25, 2009

Notice of Proposed Rulemaking: 16 A.A.R. 680, April 30, 2010

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 rules, including the agency's reason for initiating the rules:

The Arizona State Legislature during the 48th Legislature, 2nd Regular Session enacted Laws 2008, Ch. 232, amending A.R.S. § 32-501; amending A.R.S. Title 32, Chapter 5, Article 2, by adding A.R.S. § 32-516; amending A.R.S. Title 32, Chapter 32, by adding Article 2, relating to cosmetic laser and injection procedures. As a result, the area of change included in this rulemaking contains requirements and terminology used in A.R.S. § 32-516. These changes are to clarify whom is qualified to supervise and perform the cosmetic procedures covered in the registration.

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The cited legislation established a requirement for the Agency to certify that laser technicians are properly trained and to maintain a list of such individuals. The Agency, based on experience with other certification programs, anticipates the cost of maintaining such a list will be \$30.00 per year per certified individual and \$100.00 per year per training facility.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

This rulemaking does not change the registration fee facilities pay annually. It does implement a minimal certification fee to cover administrative costs for individuals wishing to be certified as laser technicians and for training programs wishing to be approved by the Agency.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Non-substantive changes to verbiage, headings, and terminology used in the rulemaking were made at the suggestion of the Secretary of State's office and the staff of the Governors' Regulatory Review Council. During the public hearing conducted on June 3, 2010, internal and public comment was submitted, requesting that the Agency amend the list of procedures for which laser technicians may be certified. The suggested amendments were approved by the Agency as well as the Radiation Hearing Board to more closely match the industry's current understanding of cosmetic laser use and to strike wart removal as it was deemed a medical procedure rather than a cosmetic procedure governed by R12-1-1438.01(F). In addition, the elimination of the word "supervising" and minor clarifications were made to R12-1-1438(B)(1)(a) and (C)(1)(a) to prevent the Agency from regulating the scope of practice of health professionals who are regulated by their own licensing boards. R12-1-1439(B) needed a clarification as the referenced table did not have a listed time-frame in it.

11. A summary of the comments made regarding the rules and the agency response to them:

A written comment was received on April 7, 2010 from Larry Helwig, RN stating that it was his opinion that supervision is within the scope of practice for Registered Nurses for laser use. This issue is under the regulation of the Board of Nursing and not regulated by the Agency so the comment is viewed as addressed with the minor revisions to R12-1-1438(B)(1)(a) and (C)(1)(a). An additional comment was made disagreeing that the 100 hours of hands-on training by a technician can qualify a technician as an instructor. This is the minimum statutory requirement enforced by the Agency and no changes are being considered based upon the comment.

A written comment was received on May 11, 2010 from Louis Silberman that medical directors should have more training than already required by Agency rules in laser use. It is determined that medical directors are already required to be health professionals with prescribing authority and the medical training they receive is from a school approved by their respective boards. The Agency will review the safety training of a medical director when a person applies for registration to ensure that the medical director meets the qualifications required by statute, but will not regulate a health professional's scope of practice.

A written comment was received on May 17, 2010 by Alison Moffo with an opinion on scope of practice of nurses, specifically that nurses must be supervised by a physician or nurse practitioner. A clarification term "prescribing" is added to the rules where a rule references an order or medical director duty to distinguish the rule provisions where "health professional" is needed from the rule provisions where a health professional with authority to prescribe is needed. An additional comment stating that the 100 hours of hands-on training is insufficient was also made and as this comment has already been addressed, the Agency is making no change based upon this comment.

A written comment was received on June 2, 2010 from Pam Randolph and the Arizona State Board of Nursing. The comment offered an opinion as to the scope of practice of nurses and supervision by nurses. The Agency will not be regulating the scope of practice of nurses. The only changes associated with these comments were the addition of the clarifying terms "prescribing" and "qualified" and the verbiage modifications previously mentioned for R12-1-1438(B)(1)(a) and (C)(1)(a). Additional comments about the confusion caused by the statutes were mentioned in the comment but the Agency cannot modify the legislation so no additional changes will be made in relation to these comments.

A hearing was conducted on June 3, 2010 and several members of the public made verbal and written comments.

The first comment came from Bill Halmi, M.D., a dermatologist. The comment addressed a concern that certain medical procedures were listed as cosmetic procedures that a laser technician could be certified in. The list of procedures in R12-1438.01(F) was modified based upon his comments. The medical procedures were removed and some of the cosmetic procedures were clarified using terms more common in the industry. Dr. Borsand also addressed the hearing

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board on the list of procedures and a compromise was discussed and agreed upon by the Agency, the hearing board, and the public in attendance.

A second comment by Dr. Halmi was that health professional training was not addressed as clearly as he would like in R12-1-1438(A). The Agency stated that new language was not needed as it was an administrative function and would not have practical impact on the rule's enforcement. In general, if a facility is already registered, that is as far back as the Agency will look with respect to required training records.

The third comment by Dr. Halmi was on the definition of health professionals and whether physician assistants would be allowed to perform cosmetic procedures under indirect supervision of a supervising physician. Because this is addressed in the legislation, the Agency made no additional changes. However, Larry Helwig, Ms. Olcott, Ms. Judy Bontrager, and Ms. Gail Gomez offered comments that nurses should be considered health professionals and supervise as allowed by their scope of practice. Confusion over the legislation was addressed again and no change to the rules was made as the Agency agrees that the legislation treats registered nurses as health professionals and supervision is allowed consistent with the relevant scope of practice.

The fourth comment by Dr. Halmi was that in his opinion and that of the Phoenix Dermatologic Society, an RN should not be allowed to indirectly supervise any procedures and that direct supervision only should be allowed for RN's. No changes were made to the rules based upon this comment because the Agency does not regulate the scope of practice of health professionals.

The final comment from Dr. Halmi is that procedures based upon power of laser be considered. The Agency believes this would be a substantial substantive change and the Agency concluded that if the board wanted that change it would need to be in an emergency rulemaking at another time. A comment by Mr. Larry Helwig voiced a concern that technology changes as well as the vast number of instruments make it impractical for schools to train in every wavelength. The issue was closed at this time. No additional comments were made.

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

The agency shall deposit monies collected pursuant to this subsection in the laser safety fund established by A.R.S. Title 32, Chapter 32, Article 2, in A.R.S. § 32-3234.

13. Any material incorporated by reference and its location in the rules:

<u>Rule</u>	<u>Incorporated Material</u>
R12-1-1438	21 CFR 801.109

14. Were these rules previously made as a emergency rules?

No

15. The full text of the rules follows:

TITLE 12. NATURAL RESOURCES

CHAPTER 1. RADIATION REGULATORY AGENCY

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND
STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION**

Section

R12-1-1438. ~~Hair Removal~~ Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

R12-1-1438.01. Certification and Revocation of Laser Technician Certificate

R12-1-1439. ~~Laser and IPL Operator~~ Laser Technician and Laser Safety Training Programs

**ARTICLE 14. REGISTRATION OF NONIONIZING RADIATION SOURCES AND
STANDARDS FOR PROTECTION AGAINST NONIONIZING RADIATION**

R12-1-1438. ~~Hair Removal~~ Reduction and Other Cosmetic Procedures Using Laser and Intense Pulsed Light

A. Registration. A person who seeks to perform hair ~~removal~~ reduction or other cosmetic procedures shall apply for registration of any medical laser or IPL device that is a Class II surgical device, certified as complying with the labeling standards in 21 CFR 801.109, revised April 1, 2003 2010, which is incorporated by reference, published by the Office of Federal Register National Archives and Records Administration, Washington, D.C. 20408, and on file with the Agency. This incorporation by reference contains no future editions or amendments. and available under R12-1-101. This incorporated material contains no future editions or amendments. The applicant shall provide all of the following information to the Agency with the application for registration:

1. Documentation demonstrating that the ~~licensed practitioner~~ health professional is qualified in accordance with ~~this Section~~ A.R.S. §§ 32-516 or 32-3233, has 24 hours of didactic training on the subjects listed in Appendix C, and has

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passed an Agency-approved exam on subjects covered with a minimum grade of 80%;

2. For any health professional in practice prior to October 1, 2010, proof of 24 hours of training on the subjects listed in Appendix C;
- ~~2-3.~~ Documentation endorsed by the ~~licensed practitioner~~ prescribing health professional, acknowledging responsibility for the minimum level of supervision required for hair ~~removal~~ reduction procedures as defined in R12-1-1402 under “indirect supervision”;
- ~~3-4.~~ Procedures to ensure that the registrant has a written order from a ~~supervising, licensed practitioner~~ prescribing health professional before the application of radiation;
- ~~4-5.~~ If authorized ~~under this Section~~, procedures to ensure that, in the absence of a ~~supervising, licensed practitioner~~ prescribing health professional at the facility, the registrant has established a method for emergency medical care and assumed legal liability for the service rendered by an indirectly-supervised ~~operator~~ certified laser technician; and
- ~~5-6.~~ Documentation that the indirectly-supervised ~~operator~~ certified laser technician has participated in the supervised training required by ~~this Section~~ A.R.S. §§ 32-516 or 32-3233.

B. Hair ~~Removal~~ Reduction Procedures

1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling standards in subsection (A), for hair ~~removal~~ reduction procedures, the registrant shall:
 - a. Ensure that the device is only used by a ~~licensed practitioner~~ health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by an operator a certified laser technician who is working under the ~~direct indi-~~ rect supervision of a ~~licensed practitioner~~ health professional described in A.R.S. §§ 32-516(C)(1) and 32-3233(D) and (H)(1), and
 - b. Ensure that a ~~licensed practitioner~~ prescribing health professional purchases or orders the Class II surgical device that will be used for hair ~~removal~~ reduction procedures.
2. A registrant shall:
 - a. Not permit an individual to use a medical laser or IPL device for hair ~~removal~~ reduction procedures unless the individual:
 - i. Completes an approved ~~operator~~ laser technician didactic training program of at least 40 hours duration. To successfully complete the training program, the individual shall pass a test that consists of ~~a~~ at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a ~~certified laser safety officer or is eligible, through training and experience, to apply for laser safety officer certification~~ health professional acting within their scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
 - ii. Is ~~directly supervised~~ present in the room for at least 24 hours ~~of on-the-job hands-on training, conducted by a licensed practitioner health professional or a certified laser technician as described in subsection (B)(2)(a)(i); and~~
 - iii. Performs or assists in at least 10 hair ~~removal~~ reduction procedures. ~~The individual shall obtain this hands-on experience under the direct supervision of a licensed practitioner; and~~
 - iv. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (B)(2)(a).
 - b. Ensure that the ~~operator~~ laser technician follows written procedure protocols established by a ~~licensed practitioner~~ prescribing health professional; and
 - c. Ensure that the ~~operator~~ laser technician follows any written order, issued by a ~~licensed practitioner~~ prescribing health professional, which describes the specific site of hair ~~removal~~ reduction.
3. A registrant shall maintain a record of each hair ~~removal~~ reduction procedure protocol that is approved and signed by a ~~licensed practitioner~~ prescribing health professional, and ensure that each protocol is reviewed by a ~~licensed practitioner~~ prescribing health professional, at least annually.
4. A registrant shall:
 - a. Maintain each procedure protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
 - b. Design each protocol to promote the exercise of professional ~~judgement~~ judgment by the ~~operator~~ laser technician commensurate with the individual’s education, experience, and training. The protocol need not describe the exact steps that a qualified ~~operator~~ laser technician should take with respect to a hair ~~removal~~ reduction procedure.
5. A registrant shall require that a ~~licensed practitioner~~ prescribing health professional observe the performance of each ~~operator~~ laser technician during ~~actual~~ procedures at intervals that do not exceed six months. The registrant shall maintain a record of the observation for three years from the date of the observation.
6. A registrant shall verify that a ~~licensed practitioner~~ health professional is qualified to perform hair ~~removal~~ reduction procedures by obtaining evidence that the ~~licensed practitioner~~ health professional has received relevant training specified in R12-1-1438(A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the practitioner’s health profes-

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- sional's licensing board.
7. A registrant shall provide radiation safety training to all personnel involved with hair ~~removal~~ reduction procedures, designing each training program so that it matches an individual's involvement in hair ~~removal~~ reduction procedures. The registrant shall maintain records of the training program and make them available to the Agency for three years from the date of the program, during and after the individual's period of employment.
- C. Other Cosmetic Procedures
1. If a registrant is using a medical laser or an IPL device that is a Class II surgical device, certified in accordance with the labeling- standards in subsection (A), for other cosmetic procedures, the registrant shall.
 - a. Ensure that the device is only used by a ~~licensed practitioner~~ health professional described in A.R.S. §§ 32-516(F)(3) and 32-3233(D)(1) or by an operator a certified laser technician who is working under the direct supervision of a licensed practitioner directly supervised by a health professional as described in A.R.S. §§ 32-516(C)(2) and 32-3233(D) and (H)(2); and
 - b. Ensure that a ~~licensed practitioner~~ prescribing health professional purchases or orders the Class II surgical device that will be used for other cosmetic procedures.
 2. A registrant shall not permit an individual to use a medical laser or IPL device for other cosmetic procedures unless the individual:
 - a. Completes an approved ~~operator laser technician~~ didactic training program of at least 40 hours duration. To successfully complete the training program the individual shall pass a test that consists of at least 50 multiple choice questions on subjects covered with a minimum grade of 80%. The training program shall be provided by an individual who is a certified laser safety officer or is eligible, through training and experience, to apply for laser safety officer certification health professional acting within their scope of practice, or a certified laser technician with a minimum of 100 hours of hands-on experience per procedure being taught;
 - b. Is ~~directly supervised~~ present in the room for at least 24 hours of on-the-job hands-on training, conducted by a licensed practitioner health professional or a certified laser technician as described in subsection (C)(2)(a); and
 - c. Performs or assists in at least 10 cosmetic procedures governed by subsection (C), for each type of procedure (for example: spider vein ~~removal~~ reduction, skin rejuvenation, non-ablative skin resurfacing). ~~The individual shall obtain this hands-on experience under the direct supervision of a licensed practitioner;~~
 - d. Has the qualified health professional or qualified supervising certified laser technician certify that the laser technician has completed the training and supervision as described in subsection (C)(2).
 3. A registrant shall maintain a record of each protocol for a cosmetic procedure governed by subsection (C) that is approved and signed by a ~~licensed practitioner~~ prescribing health professional, and ensure that each protocol is reviewed by a ~~licensed practitioner~~ prescribing health professional, at least annually. The registrant shall:
 - a. Maintain each protocol onsite, and ensure that the protocol contains instructions for the patient concerning follow-up monitoring; and
 - b. Design each protocol to promote the exercise of professional ~~judgement~~ judgment by the ~~operator laser technician~~ commensurate with the individual's education, experience, and training. The protocol need not describe the exact steps that a qualified operator laser technician should take with respect to a cosmetic procedure governed by subsection (C).
 4. A registrant shall verify that a ~~licensed practitioner~~ health professional is qualified to perform laser, IPL, and related procedures, by obtaining evidence that the ~~licensed practitioner~~ health professional has received relevant training specified in R12-1-1438(A)(1) and in physics, safety, surgical techniques, pre-operative and post-operative care and can perform these procedures within the relevant scope of practice, as defined by the practitioner's health professional's licensing board.
 5. A registrant shall provide radiation safety training to all personnel involved with cosmetic procedures governed by subsection (C), designing each training program so that it matches an individual's involvement in each procedure. The registrant shall maintain records of the training program and make them available to the Agency for three years from the date of the program, during and after the individual's period of employment.
- D. Persons governed by this Section shall also comply with other applicable licensing and safety laws.
- E. A laser shall be secured so that the laser cannot be removed from the facility and the on/off switch is turned to the "off" position with the key removed when a certified laser technician or a health professional is not present in the room where the laser is located.

R12-1-1438.01. Certification and Revocation of Laser Technician Certificate

- A. An applicant for a laser technician certificate shall submit a completed application and certification that the applicant has received the training specified in A.R.S. §§ 32-516(A) or 32-3233(E).
- B. The applicant shall pay a nonrefundable fee of \$30.00. A duplicate certificate may be requested at the time of initial application or renewal at a fee of \$10.00 per certificate. To obtain a duplicate certificate at other times a laser technician shall pay \$20.00 per certificate.
- C. Initial certificates are issued for 12 months and expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$30.00 each year in addition to \$10.00 per duplicate certificate requested.

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- D.** Under A.R.S. § 32-3233(I) and (J), the Agency may take appropriate disciplinary action, including revocation of the certificate of a certified laser technician. The Agency may discipline a certified laser technician who has had a relevant professional license suspended or revoked, or been otherwise disciplined by a health professional board or the Board of Cosmetology. The Agency may also discipline the certified laser technician for falsifying documentation related to training, prescriptions, or other required documentation. As provided in Article 12 of this Chapter, the Agency may assess civil penalties, suspend, revoke, deny, or put on probation a certified laser technician.
- E.** A laser technician that has been using laser and IPL devices prior to November 24, 2009 may continue to do so if the technician applies for and receives a certificate from the Agency before October 1, 2010.
- F.** Certification may be issued for one or more of the following procedures:
1. Hair Reduction.
 2. Skin Rejuvenation.
 3. Non-Ablative Skin Resurfacing.
 4. Spider Vein Reduction.
 5. Skin Tightening.
 6. Wrinkle Reduction.
 7. Laser Peel.
 8. Telangiectasia Reduction.
 9. Acquired Adult Hemangioma Reduction.
 10. Facial Erythema Reduction.
 11. Solar Lentigo Reduction (Age Spots).
 12. Ephelis Reduction (Freckles).
 13. Acne Scar Reduction.
 14. Photo Facial, or
 15. Additional procedures as approved by the Agency after consultation with other health professional boards as defined in A.R.S. §§ 32-516(F)(3) or 32-3233(D)(1).
- G.** For any application relating to the certification of laser technicians, as described in A.R.S. § 41-1072, there is an administrative completeness review time-frame of 30 days and a substantive review time-frame of 30 days with an overall time-frame of 60 days.
- H.** Certified laser technicians shall display a valid original certificate as issued by the Agency in a location that is viewable by the public.

R12-1-1439. Laser and IPL Operator ~~Operator~~ Laser Technician and Laser Safety Training Programs

- A.** A person seeking to initiate a medical laser or IPL ~~operator~~ laser technician training program shall submit an application to the Agency for approval certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in ~~R12-1-1421~~ R12-1-1438 through ~~R12-1-1444~~ R12-1-1439, and Appendix C, and Appendix D, with emphasis on personal and public safety.
- B.** The Agency shall review the application and other documents required by ~~subsection~~ subsections (A) and (E) in a timely manner, ~~according to R12-1-1223,~~ using an administrative completeness review time-frame of 40 days and a substantive review time-frame of 20 days with an overall time-frame of 60 days.
- C.** The Agency shall maintain a list of ~~approved~~ certified laser or IPL training programs.
- D.** Applicants for approval as a certified laser or IPL training program shall pay a nonrefundable \$100.00 fee.
- E.** Initial certification shall be issued for 12 months and shall expire on the last day of the month. A renewal application shall be accompanied by a renewal fee of \$100.00 each year.
- F.** A person seeking to initiate a medical laser or IPL laser technician safety training program shall submit an application to the Agency for certification that contains a description of the training program. In addition, the person shall submit a syllabus and a test that consists of at least 50 multiple choice questions on subjects covered. In the program materials, the person shall address the subjects in R12-1-1421 through R12-1-1444, Appendix C, and Appendix D, with emphasis on personal and public safety. The program shall also contain the training required by A.R.S. § 32-3233(E) or clearly state the portions of the training that are not provided or met if didactic certification is to take place in another program. The applicant shall conduct training in accordance with the program submitted to the Agency and certified by the Agency.

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TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

Editor's Note: The following Notice of Final Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on December 1, 2009.

[R10-122]

PREAMBLE

<u>1. Sections Affected</u>	<u>Rulemaking Action</u>
Article 1	Amend
R18-15-101	Amend
R18-15-102	Renumber
R18-15-102	New Section
R18-15-103	Repeal
R18-15-103	Renumber
R18-15-103	Amend
R18-15-104	Amend
R18-15-105	Repeal
R18-15-105	New Section
R18-15-106	Repeal
R18-15-106	Renumber
R18-15-106	Amend
R18-15-107	Renumber
R18-15-107	Amend
R18-15-108	Repeal
R18-15-109	Repeal
R18-15-110	Repeal
R18-15-111	Repeal
R18-15-112	Renumber
R18-15-201	Amend
R18-15-202	Repeal
R18-15-202	Renumber
R18-15-202	Amend
R18-15-203	Renumber
R18-15-203	New Section
R18-15-204	Amend
R18-15-205	Amend
R18-15-206	Amend
R18-15-207	Amend
R18-15-208	Amend
R18-15-301	Amend
R18-15-302	Repeal
R18-15-302	Renumber
R18-15-302	Amend
R18-15-303	Renumber
R18-15-303	New Section
R18-15-304	Amend
R18-15-305	Amend
R18-15-306	Amend
R18-15-307	Amend
R18-15-308	Amend
Article 4	Amend
R18-15-401	Amend
R18-15-402	Repeal
R18-15-402	New Section
R18-15-403	New Section
R18-15-404	New Section
R18-15-405	New Section
R18-15-406	New Section

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R18-15-407	New Section
R18-15-408	New Section
R18-15-501	Renumber
R18-15-501	New Section
R18-15-502	Repeal
R18-15-502	Renumber
R18-15-502	Amend
R18-15-503	Amend
R18-15-504	Amend
R18-15-505	Amend
R18-15-506	Repeal
R18-15-507	Repeal
R18-15-508	Repeal
R18-15-509	Repeal
R18-15-510	Repeal
R18-15-511	Repeal
Article 6	Amend
R18-15-601	Repeal
R18-15-601	New Section
R18-15-602	Amend
R18-15-603	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, 49-1224, 49-1244, 49-1268 and 49-1274

Implementing Statutes: A.R.S. §§ 9-571, 49-1202, 49-1203, 49-1222, 49-1224, 49-1242, 49-1244, 49-1267, 49-1268 and 49-1269, and A.R.S. Title 49, Chapter 8, Article 3

3. The effective date of the rules:

October 10, 2010

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

Notice of Rulemaking Docket Opening: 16 A.A.R. 408, March 5, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 768, May 14, 2010

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 rulemaking:

A. Reasons for Initiating the Rulemaking

The Water Infrastructure Finance Authority of Arizona (WIFA) is initiating this rulemaking to satisfy commitments stated in WIFA's October 2007 five-year-review report and to reflect the current governing statutes. The five-year-review identified numerous necessary clarifications, as well as Articles and Sections requiring amendment or addition to conform to recent statutory changes.

In its 2002 session, the Legislature amended A.R.S. § 49-1203(B)(16) to establish that counties with less than 500,000 persons are eligible to receive grants, staff assistance or technical assistance in the form of a loan repayment agreement or other professional assistance. This rulemaking addresses the amended statute in R18-15-501. In 2005 the Legislature authorized WIFA to enter into short-term emergency loan agreements with political subdivisions or Indian tribes (A.R.S. § 49-1269). This statutory change is addressed in R18-15-102(B)(5), R18-15-206(C) and R18-15-306(C). In its 2006 session, the Legislature amended A.R.S. § 9-571(C) to establish that cities and towns with a population of 50,000 persons or less may pledge revenues for repayment of financial assistance without an election. This rulemaking includes a provision for these political subdivisions in R18-15-104(B)(2). In its 2007 session, the Legislature established the Water Supply Development Revolving Fund to be administered by WIFA in A.R.S. § 49-1271, and in its 2009 session, the Legislature amended A.R.S. § 49-1202(B)(8) and (9) to change the requirements for two of the members of the Water Supply Development Fund Committee. This rulemaking establishes how the Water Supply Development Revolving Fund will be administered in Articles 1 and 4.

Notices of Final Rulemaking

In addition to adding new provisions of law, this rulemaking restructures the content of the current rules by adding, amending and repealing Sections. Redundancy in each Article of the current rules was removed providing a more direct presentation of the required actions and process of applying for, evaluating an application for, and receiving financial or technical assistance from WIFA. Other edits were made to create a more logical and comprehensive structure. Common requirements for financial and technical assistance through each of the revolving funds are specified in Article 1, with the content unique to the Clean Water Revolving Fund, Drinking Water Revolving Fund and Water Supply Development Revolving Fund specified in Articles 2, 3 and 4, respectively, and the content specific to technical assistance specified in Article 5.

B. Article-by-Article Explanation of the Rule**ARTICLE 1**

Article 1 is restructured to describe the common elements of financial and technical assistance available from WIFA in a single location. The heading of Article 1 was changed to “General Provisions” to reflect the nature of this restructuring. This Article focuses on the processes and requirements that are common to the Clean Water Revolving Fund, Drinking Water Revolving Fund and Water Supply Development Revolving Fund Programs. Where the processes and requirements of technical assistance are the same as financial assistance, they are also specified in this Article. This rulemaking removes redundancy in the current rules and provides a clearer understanding of WIFA’s operations. Several Sections of Article 1 are repealed because they are being moved or consolidated into other Sections, are repetitive of statute or are more appropriate as agency policy.

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 Chapter and by eliminating definitions that are no longer necessary or applicable to this Chapter.

This rulemaking amends the following definitions: “applicant,” “application,” “Authority,” “Board,” “Certified Water Quality Management Plan,” “dedicated revenue source for repayment,” “disbursement,” “drinking water facility,” “EPA,” “executive director,” “financial assistance,” “financial assistance agreement,” “governmental unit,” “Intended Use Plan,” “master priority list,” “project,” and “recipient.”

The following are new terms used within the rulemaking which have been added to this Section: “Committee,” “discharge,” “EA,” “EID,” “EIS,” “FONSI,” “fundable range,” “grant applicant,” “grant application,” “impaired water,” “onsite system,” “planning and design assistance grant agreement,” “planning and design loan repayment agreement,” “priority value,” “ROD,” “technical assistance,” “wastewater treatment facility,” “water provider,” “water supply development” and “Water Supply Development Revolving Fund.”

The current term and definition of “MBE, WBE, SBRA report” are renamed to “DBE” and amended to reflect the renaming of EPA’s Disadvantaged Business Enterprise Program, effective May 27, 2008 (40 CFR 33).

The term “Priority List” is renamed to “project priority list” and amended.

Three terms are renamed to reflect statutory language in A.R.S. § 49-1203. The current definition of “operational technical assistance” is renamed to “staff assistance.” The current definition of “policy technical assistance” is renamed to “professional assistance.” The current definition of “project technical assistance” is renamed to “planning and design assistance grant.” These three definitions are also amended to include water supply development as established in A.R.S. Title 49, Chapter 8, Article 3.

The following terms are no longer applicable and have been eliminated from the rules: “Approval to Construct,” “construction,” “Designated Water Quality Management Planning Agency,” “Equivalency Project,” “First Use Project,” “infiltration,” “Nonpoint Source Management Program,” “preconstruction,” “regulatory authority,” “replacement,” “service area,” “state match,” “Technical Assistance Intended Use Plan,” “treatment works,” and “user charge.”

R18-15-102 in the current rules was renumbered to become R18-15-103, and minor clarifying changes were made. A new Section at R18-15-102 eliminates the redundancy of the current rules by listing the types of assistance available in a single location in Article 1 instead of three separate locations (currently R18-15-201, R18-15-301 and R18-15-401). The application requirements included in the current rules at R18-15-103, R18-15-104, R18-15-105 and R18-15-106 are consolidated in R18-15-104. This new Section establishes the common application requirements for each of the revolving funds, indicating what an applicant must include with a financial assistance application. The Board’s actions regarding applications to the Clean Water and Drinking Water revolving fund programs have been moved to R18-15-207 and R18-15-307 respectively. The minimum number of years for which the applicant must provide financial statements, audit or comprehensive financial statements and budget is reduced from five to three years in R18-15-104(C). R18-15-105 was amended to include the general conditions of the financial assistance agreement and requirements regarding disbursements and repayments specified in the current rules at R18-15-110 and R18-15-111.

WIFA’s environmental review process is described in R18-15-106 which is renumbered and amended from R18-15-107. WIFA conducts reviews of the potential environmental impacts of construction and design Clean Water and Drinking Water projects through a National Environmental Policy Act (NEPA)-like state environmental review process. Federal regulations at 40 CFR 6 regarding procedures for implementing NEPA were amended on September 19, 2007 and were further amended on February 4, 2009. These federal regulations amended NEPA procedures by: con-

solidating and standardizing the procedural provisions and requirements of the environmental review process; clarifying the general procedures; consolidating the categories of actions subject to categorical exclusion, and amending existing and adding new categorical exclusions; identifying extraordinary circumstances instead of reasons to deny an exclusion; and consolidating and amending the listing of actions that generally require an environmental impact statement. This rulemaking updates the rule to be consistent with these federal regulations. In addition to these amendments, the rulemaking corrects the term “categorical exemption” to “categorical exclusion” and revises the acronym FNSI to FONSI.

R18-15-107 is renumbered from R18-15-112 and amended to clarify the dispute process. This Section excludes the planning and design assistance grants from the process, as WIFA is required to award grants in accordance with the competitive grant solicitation requirements of the state grant code (A.R.S. Title 41, Chapter 24, Article 1). The state grant code includes a separate “remedies” process (A.R.S. § 41-2704) which is referenced in the new rule at R18-15-503(H), R18-15-504(H) and R18-15-505(H).

ARTICLES 2 AND 3

Articles 2 and 3 include the content unique to the Clean Water Revolving Fund Program and the Drinking Water Revolving Fund Program, respectively. These Articles have been restructured to remove the redundancy in the current rule. Many of the revisions to these Articles are common to both and are described here together.

Sections R18-15-201 and R18-15-301 of the current rules describe types of financial assistance available. Because these are common to both the Clean Water and Drinking Water Revolving Funds, the information has been moved to Section R18-15-102. The purposes for uses of monies listed in the current rules are specified in statute (A.R.S. §§ 49-1223 and 49-1243); therefore, the information is replaced with the statute citations in the new Sections R18-15-201 and R18-15-301. Financial assistance eligibility criteria are moved from R18-15-202 of the current rules to R18-15-201 and from R18-15-302 of the current rules to R18-15-301. R18-15-201, R18-15-202(A), R18-15-301 and R18-15-302(A) of the current rules are incorporated into the new Sections R18-15-201 and R18-15-301, respectively. The eligibility criteria of the current rules, R18-15-202(B) and R18-15-302(B), are moved to new Sections R18-15-206 and R18-15-306, respectively.

Sections R18-15-202 and R18-15-302 are renumbered from R18-15-203 and R18-15-303 and amended to clarify the requirements and processes of the Intended Use Plans. The major difference between the current and new Sections is clarification of the public comment period for the Intended Use Plans. The current rules require the Authority to hold public meetings to receive comments on the Intended Use Plans after public comment periods for the project priority lists [R18-15-204(E) and (F) and R18-15-304(E) and (F)]. However, the Authority is only required by law to publicly notice Intended Use Plans which include the project priority lists. Therefore, the rules are amended to only include the public notice requirements for Intended Use Plans.

The rules regarding the project priority lists are moved from R18-15-204 and R18-15-304 to the new Sections R18-15-203 and R18-15-303. These Sections are amended to modify the items to be included on the project priority lists. Additionally, Sections R18-15-203(B) and R18-15-303(B) establish that the criteria for ranking and the relative importance of each criterion will be included with the project priority list application form. Since WIFA creates the Intended Use Plans and associated project priority lists annually, the specific ranking criteria will not be modified during the annual funding cycle and all project priority list applications during a funding cycle will be evaluated on the same criteria.

Sections R18-15-205 and R18-15-305 of the current rules are renumbered to R18-15-204 and R18-15-304, respectively. These Sections establish the categories by which WIFA shall determine the priority value of each project on the project priority list and that WIFA shall use the priority value to rank each project. The major difference between the current rules and the new rules is the replacement of the detailed ranking criteria from the current rules, R18-15-205 and R18-15-305, with six broad ranking categories. These six ranking categories are similar to those in the current rules, with the exception of the Conservation Index in the Clean Water Revolving Fund being replaced with a water and energy efficiency and environmentally innovative category [R18-15-204(A)(3)], and the addition of a water and energy efficiency and environmentally innovative category to the Drinking Water Revolving Fund [R18-15-304(A)(3)]. The detailed ranking criteria are more appropriate as agency policy because elimination of the detailed ranking criteria in rules provides WIFA with the flexibility to modify the criteria based on changing state and federal priorities. The procedures for ranking projects with tied scores are amended in R18-15-204(B) and R18-15-304(B).

The new Sections R18-15-205 and R18-15-305 consolidate and amend the current Sections R18-15-206 and R18-15-207, and R18-15-306 and R18-15-307, respectively. The new rules remove redundancy regarding the fundable range and consolidate three lists into one list: the current priority list, fundable range - design financial assistance list, and fundable range - construction financial assistance list. These Sections specify the evidence WIFA will use to determine when a project is within the fundable range. This rulemaking specifies that the project priority list will identify which projects are within the fundable range thereby eliminating the creation of a separate fundable range project priority list as is currently required. The new rules also eliminate separate fundable ranges for design financial assistance (current rule R18-15-206 and R18-15-306) and construction financial assistance (current rule R18-15-207 and R18-15-307).

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The new Sections R18-15-206 and R18-15-306 specify when WIFA shall accept an application for financial assistance and the requirements the applicant shall meet prior to WIFA providing an application to the Board for consideration. This Section includes portions of the current rules, R18-15-202(B) and R18-15-302(B), specifying that the applicant must meet the legal, financial, technical and managerial capability requirements and be on the project priority list. The new rules provide that short-term emergency loans pursuant to A.R.S. § 49-1269 are excluded from the requirements.

New Sections R18-15-207 and R18-15-307 specify the information WIFA shall provide in its analysis of a project's application as provided for the Board's consideration. These Sections also specify the actions the Board may take on an application and the actions to be taken if funds are limited or not available to provide financial assistance. These new Sections consolidate the list of the items the Board shall consider in a financial assistance application and the authority of the Board to modify the financial assistance based on the applicant's capability from four separate Sections of the current rules (R18-15-103, R18-15-104, R18-15-105 and R18-15-106) to one Section in each of Article 2 and Article 3 in the new rules. This rearrangement of the rules also properly separates the requirements of the Board from the requirements of the applicant.

Sections R18-15-208 and R18-15-308 are amended to specify certification requirements of the applicant. This rule-making eliminates the current rules R18-15-208(A), R18-15-208(B), R18-15-208(C), R18-15-308(A) and R18-15-308(B), as the financial assistance agreements instead specify these requirements. R18-15-208(A) and R18-15-308 are amended to include construction work in the certification requirements.

ARTICLE 4

Article 4 of the current rules is repealed and replaced with new Sections. Article 4 of the current rules describes "Other Financial Assistance" which includes WIFA's issuance of Water Quality Bonds on behalf of eligible applicants. The current Sections R18-15-401(B) and R18-15-402(A) do not provide any further clarification than the statutes A.R.S. §§ 49-1261(A) and 49-1262(A), therefore, these Sections are repealed from the new rules. The types of financial assistance available and eligibility requirements are moved from Sections R18-15-401(A) and R18-15-402(B) to R18-15-102 and R18-15-104, respectively.

New Sections of rules regarding the Water Supply Development Revolving Fund are in Article 4. The Fund is established at A.R.S. § 49-1271, and its Committee is established at A.R.S. § 49-1202(B). Article 4 in the new rules prescribes the procedure to apply for and approve assistance, establishes criteria by which Water Supply Development Revolving Fund assistance will be awarded as per A.R.S. § 49-1274, and determines the order and priority of projects. The structure of Article 4 follows the structure of the Drinking Water Revolving Fund in Article 3 and describes the Water Supply Development Revolving Fund Committee requirements and actions in parallel to the Board's requirements and actions for the Drinking Water Revolving Fund.

ARTICLE 5

Article 5 is restructured to provide a clearer understanding of the technical assistance available and the required actions and process for applying for, evaluating applications for, and receiving planning and design assistance grants. The major difference between the current and new rules is that planning and design assistance grants (currently called technical assistance grants) will be solicited and awarded per the state grant code (A.R.S. Title 41, Chapter 24, Article 1). This code requires that state governmental units award grants in accordance with its competitive grant solicitation requirements. The rules regarding technical assistance project priority lists and fundable ranges are not used, therefore Sections R18-15-506 through R18-15-511 are being repealed from the current rules.

The new Section R18-15-501 establishes the types of technical assistance WIFA provides. R18-15-502 is renumbered from the current R18-15-501 and amended to reflect the purpose of the Intended Use Plan for each type of technical assistance and the process for approval of the Intended Use Plan. The major difference between the current rules and new rules is the elimination of the specific information to be included in the Technical Assistance Intended Use Plan, as these requirements are no longer applicable under the state grant code. Technical assistance loans are defined in A.R.S. § 49-1203(B)(16) and are referenced in the rules as planning and design loans.

The new Sections R18-15-503 and R18-15-504 establish that WIFA will solicit and award Clean Water and Drinking Water planning and design assistance grants per the state grant code. Portions of the eligibility requirements specified in current rule R18-15-502 are incorporated in these new Sections. However, most of the eligibility requirements have been eliminated since the requirements will be addressed in the Request for Grant Applications as required by the state grant code.

The detailed ranking criteria in the current rule R18-15-505 were eliminated and will be specified in each Request for Grant Applications as required by the state grant code. With the detailed ranking criteria included in each Request for Grant Applications, all grant applicants per grant cycle will be evaluated on the same criteria and will have proper notice of the criteria. Elimination of the detailed ranking criteria in rules provides WIFA with the flexibility to modify the criteria based on changing state and federal priorities.

The new Section R18-15-505 establishes that WIFA will solicit and award the recently authorized Water Supply Development planning and design assistance grants according to the state grant code, A.R.S. § 41-2702. The organization of the new Section follows the same format as R18-15-503 and R18-15-504.

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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, as a precautionary measure, this Article remains in the new rulemaking to preserve WIFA's authority if additional future funds are received for the Hardship Grant Fund Program. The Article is restructured to provide a more direct presentation of the required actions and process of applying for, evaluation of and receiving financial or technical assistance from the Hardship Grant Fund.

ARTICLE 7

The amendments to this Article consist of rule citations and minor editorial changes.

7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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

8. **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

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

A. Proposed rulemaking

The Water Infrastructure Finance Authority of Arizona (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 to political subdivisions and Indian tribes for their wastewater and drinking water infrastructure projects. In its 2007 session, the Legislature established the Water Supply Development Revolving Fund to be administered by WIFA, however this program has not yet been funded. WIFA is a self-supporting agency and pays administrative costs from income received from loan repayments and interest or from a maximum of four percent of each of the Clean Water and Drinking Water federal capitalization grants as authorized by law.

B. Information contained in this impact statement

WIFA believes that the proposed rules 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 rules have a beneficial impact and are expected to have no cost or minimal cost impact to the regulated industries, including wastewater treatment facilities, drinking water facilities, and water providers; and small businesses and small communities. WIFA provides significant savings to the wastewater and drinking water facilities through below-market interest rates, reduced transaction costs, and reduced administrative costs. Without the financial and technical assistance available through WIFA, many wastewater and drinking water facilities 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.

C. Name and address of agency employees who can submit additional data on the information included in this statement

Sandy Sutton, Chief Financial Officer
Water Infrastructure Finance Authority
1110 W. Washington St., Suite 290
Phoenix, AZ 85007
(602) 364-1310

10. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

The Authority made the following changes to the proposed rules:

General

1. Technical, grammatical, formatting, and style corrections were made at the request of the Governor's Regulatory Review Council and the Office of the Secretary of State. These are not substantial changes.
2. Throughout the rules, the Authority corrected the Safe Drinking Water Act citation from 42 U.S.C. § 300f to 300j-25 to 42 U.S.C. 300f to 300j-26. This is not a substantial change.
3. Throughout the rules, the Authority changed the references to A.R.S. § 49-1203(16) to include a reference to A.R.S. § 49-1203(17) which refers to water supply development. This is not a substantial change.
4. Throughout the rules, the Authority replaced the undefined term "wastewater system" with the term "wastewater treatment facility," which is defined at A.R.S. § 49-1201(13). This is not a substantial change.

Notices of Final Rulemaking

R18-15-101

5. The Authority added the following acronyms, which are defined and used in R18-15-106, to this Section: “EA,” “EID,” “EIS,” “FONSI,” and “ROD.” This is not a substantial change.
6. In response to a suggestion by the Governor’s Regulatory Review Council staff, the Authority added the term “planning and design loan repayment agreement” to clarify that the term is synonymous with “technical assistance loan repayment agreement” as defined at A.R.S. § 49-1201(12). This is not a substantial change.
7. The Authority added the term “wastewater treatment facility,” which is defined in A.R.S. § 49-1201(13), to replace the undefined term “wastewater system,” which was used throughout the rules. This is not a substantial change.
8. The Authority removed the last sentence of the definition of “professional assistance.” This erroneous sentence referred to the definition of staff assistance, not professional assistance. This is not a substantial change.

R18-15-102(B)(6)

9. The Authority added the citations A.R.S. §§ 49-1223(A)(6) and 49-1243(A)(7) to include parallel provisions for the Clean Water and Drinking Water revolving funds. This is not a substantial change.

R18-15-104(B)(3)

10. At the recommendation of the Authority’s attorney, the Authority replaced “at the conclusion of each step in the special taxing district creation process” with “authorizing the long-term indebtedness.” This change was made to simplify applicant requirements. Ultimately, the Authority only needs a copy of final documentation, notices, petitions, and related information authorizing the long-term indebtedness. This is not a substantial change.

R18-15-105(G)

11. The Authority corrected the language regarding loan repayment late fees. Loan terms, including late fees, are specifically addressed in the financial assistance agreement documents. This is not a substantial change.

R18-15-106(G)(5)

12. The Authority removed subsection (k) because it was identical to subsection (i) and was a mistaken repetition. This is not a substantial change.

R18-15-202(B)

13. The Authority simplified a run-on sentence by replacing the first clause with a reference to the summary described in the previous sentence. This is not a substantial change.

R18-15-208(B)

14. The Authority corrected the citation to the Civil Rights Act. This is not a substantial change.

R18-15-302(B)

15. See change to R18-15-202(B).

R18-15-308(B)

16. In response to a suggestion by the Governor’s Regulatory Review Council staff, the Authority added subsection (B) to specify compliance with the Civil Rights Act. This is not a substantial change.

R18-15-402(B)

17. See change to R18-15-202(B).

R18-15-407(A)(7)

18. The Authority changed the wording to incorporate the requirements of A.R.S. § 49-1274(B)(2)(f) regarding the applicant’s ability to acquire any necessary regulatory permits. This is not a substantial change.

R18-15-502(A)

19. The Authority rewrote this Section to clarify how the Clean Water, Drinking Water and Water Supply Development Technical Assistance Intended Use Plans may be written as various combinations of documents. This is not a substantial change.

R18-15-503(A), 504(A), and 505(A)

20. In response to a suggestion by the Governor’s Regulatory Review Council staff, the Authority rewrote the sentence “[t]he Board may waive funding if funds are not adequate to provide assistance or if the Board determines that no assistance will be offered for the annual funding cycle” due to the ambiguity of the word “waive.” The sentence now reads “[t]he Board may determine that no assistance will be offered for the annual funding cycle.” This is not a substantial change.

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R18-15-505(K)(1)

21. In response to a suggestion by the Governor's Regulatory Review Council staff, the Authority removed the requirement to submit a Disadvantaged Business Enterprise (DBE) report. The Water Supply Development program is a state-funded program; state-funded programs are not required to comply with DBE, which is a requirement of federal capitalization grants received from EPA. This is not a substantial change.

R18-15-601(A)(2)

22. In response to a suggestion by the Governor's Regulatory Review Council staff, the Authority added "and technical assistance" to be consistent with A.R.S. § 49-1267(D)(2). This is not a substantial change.

11. A summary of the comments made regarding the rule and the agency response to them:

An oral proceeding on the Notice of Proposed Rulemaking was held on June 17, 2010. Jason Baran representing the Arizona Municipal Water Users Association attended the hearing. Mr. Baran provided verbal comment in favor of the rulemaking. No other verbal or written comment was received.

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

None

13. Incorporations by reference and their locations in the rules:

None

14. Was this rule previously made as an emergency rule?

No

15. The full text of the rules follows:

TITLE 18. ENVIRONMENTAL QUALITY

CHAPTER 15. WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA

ARTICLE 1. MANAGEMENT GENERAL PROVISIONS

Section

- R18-15-101. Definitions
R18-15-102. Types of Assistance Available
~~R18-15-103. Legal Capability~~
~~R18-15-102-R18-15-103. Application Process~~
R18-15-104. ~~General Financial Capability~~ Assistance Application Requirements
R18-15-105. ~~Technical Capability~~ General Financial Assistance Conditions
~~R18-15-106. Managerial and Institutional Capability~~
~~R18-15-107-R15-15-106. Environmental Review~~
~~R18-15-112-R18-15-107. Disputes~~
R18-15-108. ~~Interest Rate Determinations~~ Repealed
R18-15-109. ~~Bid Document Review~~ Repealed
R18-15-110. ~~Disbursements and Repayments~~ Repealed
R18-15-111. ~~Administration~~ Repealed
R18-15-112. Renumbered

ARTICLE 2. CLEAN WATER REVOLVING FUND

Section

- R18-15-201. ~~Types of Clean Water Revolving Fund~~ Financial Assistance Available Eligibility Criteria
~~R18-15-202. Eligibility Requirements for Financial Assistance~~
~~R18-15-203-R18-15-202. Clean Water Revolving Fund Intended Use Plan~~
R18-15-203. Clean Water Revolving Fund Project Priority List
R18-15-204. Clean Water Revolving Fund Project Priority List Ranking
R18-15-205. ~~Ranking Criteria for the Clean Water Revolving Fund Project Priority List~~ Fundable Range for Financial Assistance
R18-15-206. ~~Fundable Range for Clean Water Revolving Fund Design~~ Application for Financial Assistance
R18-15-207. ~~Fundable Range for Clean Water Revolving Fund Construction~~ Application Review for Financial Assistance
R18-15-208. Clean Water Revolving Fund Requirements

Notices of Final Rulemaking

ARTICLE 3. DRINKING WATER REVOLVING FUND

Section

- R18-15-301. ~~Types of Drinking Water Revolving Fund Financial Assistance Available~~ Eligibility Criteria
R18-15-302. ~~Eligibility Requirements for Financial Assistance~~
~~R18-15-303-R18-15-302.~~ Drinking Water Revolving Fund Intended Use Plan
R18-15-303. ~~Drinking Water Revolving Fund Project Priority List~~
R18-15-304. Drinking Water Revolving Fund Project Priority List Ranking
R18-15-305. ~~Ranking Criteria for the Drinking Water Revolving Fund Priority List~~ Fundable Range for Financial Assistance
R18-15-306. ~~Fundable Range for Drinking Water Revolving Fund Design~~ Application for Financial Assistance
R18-15-307. ~~Fundable Range for Drinking Water Revolving Fund Construction~~ Application Review for Financial Assistance
R18-15-308. Drinking Water Revolving Fund Requirements

ARTICLE 4. ~~OTHER FINANCIAL ASSISTANCE~~ WATER SUPPLY DEVELOPMENT REVOLVING FUND

Section

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

ARTICLE 5. TECHNICAL ASSISTANCE

Section

- R18-15-501. Technical Assistance
R18-15-502. ~~Eligibility Requirements for Project Technical Assistance~~
~~R18-15-501-R18-15-502.~~ Technical Assistance Intended Use Plan
R18-15-503. ~~Types of Project Technical~~ Clean Water Planning and Design Assistance Available Grants
R18-15-504. ~~Clean Drinking Water Project Technical Planning and Design Assistance Priority List Grants~~
R18-15-505. ~~Ranking Criteria for Clean Water Supply Development Planning and Design Project Technical Assistance Priority List Grants~~
R18-15-506. ~~Fundable Range for Clean Water Project Technical Assistance Grants~~ Repealed
R18-15-507. ~~Fundable Range for Clean Water Project Technical Assistance Loans~~ Repealed
R18-15-508. ~~Drinking Water Project Technical Assistance Priority List~~ Repealed
R18-15-509. ~~Ranking Criteria for Drinking Water Project Technical Assistance Priority List~~ Repealed
R18-15-510. ~~Fundable Range for Drinking Water Project Technical Assistance Grants~~ Repealed
R18-15-511. ~~Fundable Range for Drinking Water Project Technical Assistance Loans~~ Repealed

ARTICLE 6. HARDSHIP GRANT FUND PROGRAM

Section

- R18-15-601. ~~Types of Assistance Available~~ Hardship Grant Fund Administration
R18-15-602. ~~Eligibility Requirements for Hardship Grant Fund~~ Financial Assistance
R18-15-603. Hardship Grant ~~Financial Fund~~ Technical Assistance Awards

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

Section

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

ARTICLE 1. ~~MANAGEMENT~~ GENERAL PROVISIONS

R18-15-101. Definitions

In addition to the definitions prescribed in A.R.S. §§ ~~49-101, 49-201, and § 49-1201~~, the terms of this Chapter, unless otherwise specified, have the following meanings:

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

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

~~“Approval to Construct” means the written approval issued by the Department or the Department’s designee to an applicant or recipient indicating that project construction may begin.~~

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

“Board” means the ~~board of directors~~ Board of Directors of the Authority pursuant to A.R.S. § ~~49-1201~~ 49-1201(2).

“Certified Water Quality Management Plan” means a plan prepared by a single representative organization designated by the Governor ~~the designated Water Quality Management Planning Agency, pursuant to § according to Section 208 of the Clean Water Act, 33 U.S.C. § 1288.~~

“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).~~

~~“Construction” means, for a project, any placement, assembly, or installation of a building, structure, equipment, treatment process, collection lines, distribution lines, pumps, or related drinking water or water pollution control activity.~~

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

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

“Department” means the Arizona Department of Environmental Quality.

~~“Designated Water Quality Management Planning Agency” means a single representative organization designated by the Governor pursuant to § 208 of the Clean Water Act, 33 U.S.C. § 1288, to develop a Certified Water Quality Management Plan for the area.~~

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

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

~~“Drinking Water Facility” “Drinking water facility” means a community water system as defined in R18-4-101, or a nonprofit non-community water system as defined in R18-4-101 has same meaning as prescribed in A.R.S. § 49-1201(6).~~

“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 ~~and its successor~~.

~~“Equivalency Project” means a wastewater treatment facility under § 212 of the Clean Water Act, 33 U.S.C. § 1292, constructed in whole or in part before October 1, 1994, with funds equaling the amount of the federal capitalization grant.~~

“Executive ~~Director~~ 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 ~~R18-15-201, R18-15-301, and R18-15-401~~ R18-15-102(B).

~~“Financial assistance agreement” means any agreement, including a financial assistance loan repayment agreement, technical assistance loan repayment agreement, or grant agreement that defines the terms for financial assistance given provided pursuant according to this Article Chapter.~~

“First Use Project” means a project identified by EPA and the state as part of the National Municipal Policy List for the state.

“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.

“Grant 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 Chap-

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ter.

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

“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.

“Infiltration” means water other than wastewater that enters a sewer system, including sewer service connections and foundation drains, from the ground through such means as defective pipes, pipe joints, connections, or manholes.

“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 pursuant to R18-15-203 and R18-15-303 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 priority list” means the Master Priority List master priority list for Capacity Development developed by the Arizona Department of Environmental Quality under 18 A.A.C. 8: A.A.C. R18-4-803, which ranks public water systems according to their need for technical assistance.

“MBE, WBE, SBRA report” means a report that identifies and documents each small business or business enterprise owned by a woman or minority in a rural area that participates in a contract funded in whole or in part by the Authority.

“Nonpoint Source Management Program” means Arizona’s Nonpoint Source Management Program, approved by EPA under § 319 of the Clean Water Act, 33 U.S.C. § 1329, for controlling pollution from nonpoint sources.

“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.

“Operational technical assistance” means the use of monies for a specific water or wastewater system to assist that system to improve its operations.

“Planning and design assistance grant” means a technical assistance grant that provides for the use of monies for a specific water, 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.

“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).

“Policy technical 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 system.

“Preconstruction” means any activity that occurs on the project before any physical activity onsite such as the erection, acquisition, alteration, remodeling, improvement, or extension of treatment works, collection lines, distribution lines, or pumps.

“Priority List” means the document developed by the Board that ranks projects pursuant to R18-15-204, R18-15-304, R18-15-504 and R18-15-508.

“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, or the Nonpoint Source Management Program, 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, R18-15-303, or R18-15-403 that ranks projects according to R18-15-204, R18-15-304, or R18-15-404.

“Project technical assistance” means the use of monies for a specific water or wastewater system to assist that system achieve technical, managerial, or financial capability and to facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.

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

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“Regulatory authority” means the Department, EPA, the Department of Health Services, a county, city, or other local health department, a county environmental agency, or a sanitary district.

“Replacement” means obtaining and installing equipment or accessories that are necessary during the design and operation of the drinking water and wastewater infrastructure to maintain the capacity and performance for which such infrastructure were designed and constructed.

“ROD” means a record of decision.

“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 XV, Section 2 of the Arizona Constitution) or a homeowners association.

“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).

“State match” means the monies that may be used to meet the requirements of § 602(b)(2) of the Clean Water Act, 33 U.S.C. § 1382 and § 1452(e) of the Safe Drinking Water Act, 42 U.S.C. § 300j-12.

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

“Technical Assistance Intended Use Plan” means the document prepared by the Authority identifying the intended sources and uses of funding for technical assistance.

“Treatment works” means any devices and systems for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial wastes used to implement § 201 of the Clean Water Act, 33 U.S.C. § 1281, or necessary to recycle or reuse water over the design life of the works.

“User charge” means a charge levied on users of drinking water and wastewater infrastructure.

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

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

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

“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. The purchase or refinance of local debt obligations;
4. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
5. Short-term emergency loan agreements in accordance with A.R.S. § 49-1269; and
6. 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. Legal Capability

A. The applicant shall demonstrate that it is legally authorized to enter into long-term indebtedness and legally authorized to pledge the dedicated revenue source for repayment required by R18-15-104.

B. If the applicant is a political subdivision or water provider and the long-term indebtedness is authorized through an election, the applicant shall provide all of the following:

1. One copy of the sample election ballot and election pamphlet at least 45 days prior to the election.
2. One copy of the governing body resolution calling for the election at least 45 days prior to the election.
3. One copy of the election results following the election.

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4. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- C.** 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 all of the following:
 1. One copy of all final documentation, notices, petitions, and related information at the conclusion of each step in the special taxing district creation process.
 2. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- D.** If the applicant is regulated by the Arizona Corporation Commission, the applicant shall provide all of the following:
 1. Evidence that the financial assistance from the Authority to the applicant has been authorized by the Arizona Corporation Commission.
 2. An attorney's opinion on the current legal status of the applicant and the applicant's ability to legally enter into the financial assistance agreement.
- E.** All other applicants who are not included in subsections (B), (C), and (D), shall demonstrate that a majority of the beneficiaries consent to the terms and conditions of the financial assistance. The Authority shall assist each applicant to devise a process by which this consent is documented.
- F.** Based on the Board's determination of the applicant's legal capability, the Authority may recommend modifications to the proposed project or the Authority may recommend modifications to the applicant's legal structure and organization.

R18-15-102. R18-15-103. Application Process

- A.** An applicant for financial requesting assistance shall apply to the Authority for each type of financial or technical assistance described in R18-15-102 on forms provided by the Authority. After the Board determines that an application is complete and correct, the Authority may enter into a financial assistance agreement with the applicant.
- B.** An applicant seeking financial assistance through the Clean Water Revolving Fund financial assistance Program shall apply for financial assistance pursuant according to Articles 1 and 2 of this Chapter.
- C.** An applicant seeking financial assistance through the Drinking Water Revolving Fund financial assistance Program shall apply for financial assistance pursuant 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.
- ~~D.E.~~** An applicant seeking other types of financial technical assistance available through the Water Infrastructure Finance Authority technical assistance programs shall apply for financial technical assistance pursuant according to Articles 1 and 4 5 of this Chapter.
- ~~E.E.~~** Any confidential information shall be marked 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 confidential 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 Capability Assistance Application Requirements

- ~~A.~~** The applicant shall identify a dedicated revenue source for repayment of the financial assistance. When determining an applicant's financial capability, the Board shall consider all the following:
 1. The amount of money collected through the dedicated revenue source for each of the previous five fiscal years.
 2. An estimate of the amount of money that will be collected through the dedicated revenue source for the current fiscal year.
 3. A projection of the amount of money that will be collected through the dedicated revenue source for each of the next five fiscal years.
- ~~B.~~** The applicant shall provide an estimate of the project costs, including applicable planning, design, and construction costs, as well as estimated annual operation, maintenance, and replacement costs.
- ~~C.~~** The applicant shall provide an estimated schedule of required disbursements of the financial assistance.
- ~~D.~~** The applicant shall provide the following information:
 1. One copy of each financial statement, audit, or comprehensive financial statement from the previous five fiscal years.
 2. One copy of each budget, business plan, management plan, or financial plan from the previous three fiscal years and the current fiscal year.
 3. One copy of the proposed budget, business plan, management plan, or financial plan for the next fiscal year.
 4. A summary of current fees for drinking or wastewater services including, as applicable, any resolutions passed by the governing body of a political subdivision.

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- ~~5. The most recent version of the applicant's capital improvement plan or other plan explaining proposed infrastructure investments.~~
- ~~6. Copies of documentation relating to outstanding indebtedness including official statements, financial assistance agreements, and amortization schedules.~~
- ~~7. The number of connections to be served by the proposed project.~~
- ~~E. Based on the Board's determination of the applicant's financial capability and the Board's review of the estimated costs of the project, the Authority may recommend modifications to the proposed project or the Authority may recommend modifications to the dedicated revenue source.~~
- 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 long-term indebtedness, and is legally authorized to pledge 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.
 - 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 long-term indebtedness.
 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 all 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 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;
 - c. One copy of each budget, business plan, management plan, or financial plan from the previous and current fiscal years;
 - d. One copy of the proposed budget, business plan, management plan, or financial plan for the next fiscal year;
 - 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 of current fees for drinking or wastewater services including, as applicable, any resolutions 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, 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;

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past due to the Office of the Attorney General for appropriate action.

R18-15-106. Managerial and Institutional Capability

- A.** The Board shall review each applicant's capability to manage the proposed project.
- B.** The applicant shall provide the following information:
 - 1. As applicable, copies of resumes, biographies, years of experience, term of office, and related information of the owners, managers, chief elected officials, and governing body members of the applicant.
 - 2. A list of professional and outside services retained by the applicant and the proposed project.
- C.** The Board may consider the following:
 - 1. As applicable, compliance history of the applicant relative to the Clean Water Act, 33 U.S.C. §§ 1251 to 1387, Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25, related Arizona statutes, and related rules, regulations, and policies.
 - 2. The scope and size of the proposed project and the applicant's ability to manage the project once completed.
- D.** Based on the Board's determination of the applicant's managerial capability and the Board's review of the proposed project, the Authority may recommend modifications to the proposed project.

~~R18-15-107.~~ R18-15-106. Environmental Review

- A.** The Authority shall conduct an environmental review ~~pursuant~~ according to this Section for impacts of the design or construction of water infrastructure ~~works in accordance with applicable federal and state law.~~ 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 ~~the Clean Water Act, 33 U.S.C. 1251 to 1387, and A.R.S. Title 49~~ 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.
- 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 ~~exemption~~ 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 shall grant ~~may issue an exemption a~~ categorical exclusion if ~~existing~~ information and documents demonstrate that the project qualifies under ~~± one~~ one or more of the following categories:
 - 1. ~~Any project which is directed towards rehabilitation of existing facilities, functional replacement of equipment, or the construction of new ancillary facilities adjacent or appurtenant to existing facilities which do not affect the degree of treatment or capacity of the existing facility.~~ 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 sewerred unsewerred communities which is for minor upgrading and minor expansion of existing treatment works 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.~~
 - 3. ~~Any project in unsewerred communities where onsite technologies are proposed.~~
- C.** ~~The Authority shall deny an exemption a~~ categorical exclusion if the project falls under any of the following categories: ~~any of the following extraordinary circumstances apply to the project:~~
 - 1. ~~The project will create a new, or relocate an existing, discharge to surface, or ground waters.~~
 - 2. ~~The project will result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters.~~
 - 3. ~~The project is known or expected to have a significant effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions.~~
 - 4. ~~The project is known or expected to directly or indirectly affect cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones; or other resource areas.~~
 - 5. ~~The project is known or expected to cause significant public controversy.~~
 - 6. ~~The project is known or expected not to be cost effective.~~

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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, archeological, 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 determines that a denies the categorical exemption exclusion is not warranted under subsection (B) (C), the applicant shall prepare an Environmental Information Document (EID) in a format prescribed by the Authority. The EID shall be of sufficient scope to allow development of an Environmental Assessment (EA) under subsection (E); 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 Prepare an Environmental Information Document 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 EA may be conducted by the Authority or by the applicant under the supervision of the Authority and shall include consideration of all of the following factors: The Authority shall conduct the EA that includes:
1. For the delineated planning area, the existing environmental conditions relevant either to the analysis of alternatives or to determining the environmental impacts of the proposed project.
 2. The relevant future environmental conditions of the delineated planning area, including the alternative of no action.
 3. The purpose and need for the project in the planning area, including the existing public health or water quality problems and their severity and extent.
 4. A comparative analysis of feasible alternatives, including no action, throughout the project area. The comparison shall focus on the beneficial and adverse consequences, both direct and indirect, on the existing environment, the future environment, and individual sensitive environmental issues that are identified by project management or through public participation conducted under this Section. The comparison shall also include an analysis of all of the following factors:
 - a. Land use and other social parameters, including recreation and open-space considerations.
 - b. Consistency with population projects used to develop state implementation plans under the Clean Air Act, 42 U.S.C. 7401 to 7671.
 - e. Cumulative impacts, including anticipated community growth within the project study area.
 - d. Other anticipated public works projects, including coordination with such projects.
 5. A full range of relevant impacts of the project, including any irreversible or irretrievable commitments of resources to the project and the relationship between local short-term uses of the environment and the maintenance and enhancement of long-term productivity.
 6. Proposed structural and nonstructural measures to mitigate or eliminate adverse effects on the human and natural environments. Among other measures, structural provisions include changes in project design, size, and location; and nonstructural provisions include staging facilities, monitoring and enforcement of environmental rules, and local commitments to develop and enforce land use rules.
1. A brief discussion of:
 - a. The need for the project;

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- 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 ~~pursuant to in the manner prescribed in subsection (G) if any of the following conditions exist.~~
 - a. The project is known or expected to have a significant adverse effect on the quality of the human environment, either individually, cumulatively over time, or in conjunction with other federal, state, local, or private actions.
 - b. The project is known or expected to directly or indirectly adversely affect recognized cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, and aquifer recharge zones, or other resource areas.
 - e. The project is likely to cause significant public controversy or is known or expected not to be cost effective.
 - d. The project discharges into a body of water where the present protected or designated use is not being met or is being challenged as inadequate to protect existing uses, and the discharge will not be of sufficient quality or quantity to meet the requirements of these uses.
 - 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. ~~If the Authority determines pursuant to subsection (F)(1) that an EIS is not necessary, the Authority shall issue a finding of no significant impact (FNSI). The FNSI shall be accompanied by the submitted EA with an attached memorandum from the Authority explaining any changes made to the submitted document. Upon issuance of the FNSI, the project may proceed under the other requirements of this Article. 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. An EIS required by subsection (F)(1) shall be prepared as follows: 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

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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 and distribute a Notice of Intent 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 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 scope of the EIS the parties attending the meeting shall be determined 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 also be addressed, or others eliminated, and the reasons documented as part of the EIS.
 4. After the analysis of issues is conducted pursuant according to subsection (G)(3), the Authority shall issue a draft EIS for public comment according to subsection (J)(4).
 5. Following public comment pursuant 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;
 - ~~b-e.~~ Comments received on the draft EIS;
 - ~~e-f.~~ A list of persons commenting on the draft EIS;
 - ~~d-g.~~ The Authority's responses to significant comments received;
 - ~~e-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
 - ~~f-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 has been issued under subsection (G) (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 mitigation measures derived from the EIS process 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.** Any project awaiting financial assistance which has a 5 or more year old categorical exclusion, FONSI, or ROD under this Section shall be subject to an environmental re-evaluation. The Authority shall re-evaluate the project, environmental conditions, and public views and, in writing, either reaffirm or modify its original decision. Any new information used by the Authority in making its determination shall be included. 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.** Public notice and participation under this Section The Authority shall be conducted 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 FONSI is issued under subsection (F)(2), the Authority shall provide public notice pursuant to R18 1-401(A) that the FONSI 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

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comments on the ~~FNSI~~ 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 ~~FNSI~~ 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~~ notice of intent is prepared and distributed under subsection (G)(1), the Authority shall publish it as a legal notice at least once, in ~~1~~ 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, pursuant to A.A.C. R18-1-401(A) 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 ~~30~~ 45 days from the date of publication of the notice. ~~In addition, if~~ When the Authority determines that a project may be controversial, the notice shall provide for a general public hearing to receive public ~~comment~~ comments pursuant to A.A.C. R18-1-401(B).
5. If the Authority reaffirms or revises a decision ~~pursuant~~ 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 ~~1~~ one or more newspapers of general circulation in the county or counties concerned.
6. ~~When public notice is required under this subsection, the Authority shall also provide written notice to the applicable Designated Water Quality Management Planning Agency.~~

~~R18-15-112.~~ 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 ~~pursuant to~~ 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~~ 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.
- ~~B-D.~~ Any party filing a dispute under subsection (A) (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 ~~such~~ the letter is received by the ~~Executive Director~~ executive director not more than 15 days after the receipt by the party of the preliminary decision.
- ~~C-E.~~ The Board shall issue a final decision on issues appealed under subsection ~~(B)~~ (D) not more than 60 days after receipt of the formal letter of appeal.

R18-15-108. Interest Rate Determinations Repealed

- ~~A.~~ In establishing interest rates for financial assistance made under this Chapter, the Authority:
 1. ~~Shall consider the interest rate on bonds issued by the Authority, prevailing market rates, the recommendations of financial advisors, equity growth, and asset growth;~~
 2. ~~Shall not establish a rate which exceeds prevailing market rates for similar types of financial assistance;~~
 3. ~~Shall not establish a rate that is less than is needed to retire the Authority's bonds.~~
- ~~B.~~ The Authority shall establish interest rates on a loan by loan basis. Such determinations shall be adopted and amended as required by the Board at public meetings of the Board.

R18-15-109. Bid Document Review Repealed

~~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. Disbursements and Repayments Repealed

- ~~A.~~ The Authority shall honor disbursement requests if the disbursements are consistent with the financial assistance agree-

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ment and the disbursement schedule agreed to by both parties at the beginning of the contract, or the amended schedule based upon prior Authority approval.

- ~~B.~~ The Authority shall charge a late fee for any loan repayment 30 days past the due date and every 30 days thereafter. The Authority shall refer any loan repayment over 90 days past due to the Office of the Attorney General for appropriate action pursuant to A.R.S. § 49-375(J).
- ~~C.~~ The recipient shall maintain a 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 Article and the financial assistance agreement.
- ~~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.

R18-15-111. Administration Repealed

- ~~A.~~ The Authority may use up to 4% of federal capitalization grant awards to pay the reasonable costs of administering the Clean Water Revolving Fund and the Drinking Water Revolving Fund.
- ~~B.~~ The Authority may also require a recipient to pay a proportionate share of the expenses of the Authority's operating costs.

R18-15-112. Renumbered

ARTICLE 2. CLEAN WATER REVOLVING FUND

R18-15-201. Types of Clean Water Revolving Fund Financial Assistance Available Eligibility Criteria

- ~~A.~~ The Authority may use the Clean Water Revolving Fund for any of the following purposes:
 - ~~1.~~ Financial assistance, which includes any of the following:
 - ~~a.~~ Financial assistance loan repayment agreements consistent with § 603(d) (1) of the Clean Water Act, 33 U.S.C. § 1383;
 - ~~b.~~ The purchase or refinance of local debt obligations that were incurred after March 7, 1985, if building began after that date;
 - ~~c.~~ The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates;
 - ~~d.~~ Security as a source of repayment of principal and interest on bonds issued by the Authority provided that the net proceeds of the bonds are deposited in the fund;
 - ~~e.~~ Guarantees of debt obligations by governmental units, which are issued to finance eligible projects.
 - ~~2.~~ Technical assistance loan repayment agreements.
 - ~~3.~~ Investments to earn interest to be deposited into the fund.
 - ~~4.~~ Payments of costs to administer the fund.
 - ~~5.~~ Other uses as additional funds are made available.
- ~~B.~~ The Authority shall describe projects and proposed financial assistance in the Clean Water Revolving Fund Intended Use Plan, developed under R18-15-203.

To be eligible to receive financial assistance from the Clean Water Revolving Fund, the applicant shall demonstrate the applicant is a governmental unit requesting 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.

R18-15-202. Eligibility Requirements for Financial Assistance

- ~~A.~~ To be eligible to receive financial assistance an applicant shall propose a project to: design, construct, acquire, improve or refinance a publicly owned wastewater treatment facility or projects eligible for the Department's Water Quality Improvement Grant Program.
- ~~B.~~ A project eligible under subsection (A) shall also meet all of the following applicable requirements before receiving financial assistance:
 - ~~1.~~ The project shall appear on the Clean Water Revolving Fund Priority List developed under R18-15-204.
 - ~~2.~~ The applicant shall demonstrate legal capability under R18-15-103.
 - ~~3.~~ The applicant shall demonstrate financial capability under R18-15-104.
 - ~~4.~~ The applicant shall demonstrate technical capability under R18-15-105.
 - ~~5.~~ The applicant shall demonstrate managerial and institutional capability under R18-15-106.
 - ~~6.~~ The applicant shall demonstrate completion of the environmental review process under R18-15-107.
 - ~~7.~~ The applicant shall obtain or be in the process of obtaining all permits and approvals required by federal, state, and local authorities.
 - ~~8.~~ The applicant shall ensure that the project is consistent with the Certified Water Quality Management Plan.

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9. For nonpoint source projects, the applicant shall ensure that the project is consistent with § 319 and Title VI of the Clean Water Act, 33 U.S.C. §§ 1329, 1381 to 1387.
- ~~C.~~ The Authority, through its Board, shall provide financial assistance to eligible governmental units for proposed projects in priority order according to the Clean Water Revolving Fund Priority List developed pursuant to R18-15-204. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Clean Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Clean Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

~~R18-15-203.~~ R18-15-202. Clean Water Revolving Fund Intended Use Plan

- ~~A.~~ The Authority annually shall develop and publish a Clean Water Revolving Fund Intended Use Plan for each funding cycle in which it anticipates that it will provide financial assistance for eligible projects that identifies the intended uses of funds available in the Clean Water Revolving Fund Program. At a minimum the The Intended Use Plan shall include a Priority List, a Fundable Range for Design Financial Assistance, and a Fundable Range for Construction Financial Assistance and shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, and estimated interest rates to be charged the project priority list according to R18-15-203. The Intended Use Plan shall also identify first use and equivalency projects. The Intended Use Plan shall be prepared after providing for public comment and review. If an the Intended Use Plan is to be submitted as one of the documents required to obtain a federal capitalization grant under Title VI of the Clean Water Act, 33 U.S.C. §§ 1381 to 1387, the Intended Use Plan shall include any additional information required by federal law.
- ~~B.~~ The Authority shall provide for a public review and written comment period of the draft Clean Water Revolving Fund Intended Use Plan 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 Plan and then adopt the Clean Water Revolving Fund Intended Use Plan at a public meeting.

~~R18-15-203.~~ R18-15-204. 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 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 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; 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.
- ~~E.~~ After an opportunity for public comment at a public meeting, 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;

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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 the project priority list for more than 365 days.

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

- ~~A. The Board shall adopt a Clean Water Revolving Fund Priority List for the funding cycle described in the Intended Use Plan. The Board shall not adopt a new list for years where funds are not adequate to assist any projects.~~
- ~~B. If the Clean Water Revolving Fund Priority List is required pursuant to subsection (A), the Authority shall rank the projects by priority points and the year the applicant requests project assistance.~~
- ~~C. An applicant, desiring placement on the Clean Water Revolving Fund Priority List, shall make its request for placement of one or more proposed projects on or before a date specified by the Authority. If requesting placement on the Clean Water Revolving Fund Priority List, an applicant shall submit information within an application format specified by the Authority.~~
- ~~D. The Authority shall prepare a draft Clean Water Revolving Fund Priority List. In developing a draft Clean Water Revolving Fund Priority List, the Authority shall consider all requests submitted under subsection (B), all requests made by regulatory authorities, all plans prepared pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 to 1387, and the most recently adopted Clean Water Revolving Fund Priority List.~~
- ~~E. The Authority shall hold a public meeting to receive comments on the draft Clean Water Revolving Fund Priority List. The Authority shall publish a notice of the public meeting in newspapers statewide at least 14 days before the meeting date and make copies of the draft Clean Water Revolving Fund Priority List available to the public at least 7 days before the meeting date.~~
- ~~F. The Authority shall consider all comments submitted in writing before the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but before the close of the written comment period. The Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. After the Authority summarizes the comments received and prepares responses, the Board shall adopt the final Clean Water Revolving Fund Priority List.~~
- ~~G. The Board shall make additions to the final Clean Water Revolving Fund Priority List if both of the following conditions are met:~~
- ~~1. The project scores a minimum of 40 points under R18-15-207(C)(2).~~
 - ~~2. The additions are made by the Board at a public meeting.~~
- ~~H. After an opportunity for public comment at a public meeting, the Board may make modifications to the Clean Water Revolving Fund Priority List, based on changes in circumstances under R18-15-207(C)(2).~~
- ~~I. After an opportunity for public comment at a public meeting, the Board may remove a project from the Clean Water Revolving Fund Priority List under one or more of the following circumstances:~~
- ~~1. The project has received all financial assistance from the fund requested by the applicant;~~
 - ~~2. The project has been financed with long term indebtedness from another source;~~
 - ~~3. The project is no longer an eligible project;~~
 - ~~4. The applicant requests removal; or~~
 - ~~5. The applicant is no longer an eligible applicant.~~
- A. The Authority shall rank each project on the Clean Water Revolving Fund Project Priority List based on the priority value of each project. The Authority shall consider the following categories to determine the priority value 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), the Authority shall give priority to the project with the highest current condition value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water quality improvement value 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, the Board shall determine the priority of the tied projects.
- C. The Authority shall determine the subsidy rate index for each project on the Clean Water Revolving Fund Project Priority

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List based on the applicant's local fiscal capacity value under subsection (A)(6) and the overall priority value of the project. The Authority shall incorporate the subsidy rate index in the financial assistance agreement.

R18-15-205. ~~Ranking Criteria for the Clean Water Revolving Fund Priority List Fundable Range for Financial Assistance~~

A. ~~The Authority, through its Board, shall rank projects using priority values obtained from the following formula:~~

~~PV = EC + PB + LFC, where:~~

~~PV = Priority Value~~

~~EC = Existing Conditions~~

~~PB = Project Benefits~~

~~LFC = Local Fiscal Capacity~~

~~1. Existing Conditions (EC) — The Authority shall award EC points up to a maximum of 200 points using the following formula:~~

~~EC = CC + PYF, where:~~

~~CC = Current Conditions~~

~~PYF = Prior Year Funding~~

~~a. Current Conditions (CC) — The Authority shall award CC points up to a maximum of 100 points using only one of the following categories:~~

~~i. Surface Water Pollution (Sewerage Facilities):~~

~~(1) 100 points if the project corrects a sewer overflow.~~

~~(2) 80 points if the project corrects a wastewater treatment facility non-compliance.~~

~~(3) 60 points if the project corrects excessive inflow and infiltration.~~

~~(4) 40 points if the project repairs a lift or pump station.~~

~~ii. Untreated or Uncontrolled Runoff (shown to be polluting either surface or ground water):~~

~~(1) 100 points if the project constructs or repairs a stormwater treatment or management facility.~~

~~(2) 80 points if the project implements agricultural best management practices.~~

~~(3) 60 points if the project involves landfill capping.~~

~~(4) 40 points if the project is non-traditional.~~

~~iii. Groundwater Pollution:~~

~~(1) 100 points if the project corrects onsite wastewater systems shown to be polluting either surface or ground water.~~

~~(2) 50 points if the project corrects surface or ground water pollution from sources other than onsite wastewater systems.~~

~~b. Prior Year Funding (PYF) — The Authority shall award PYF points up to a maximum of 100 points with only one set of points awarded as follows~~

~~i. 100 points if the applicant requests additional financial assistance for a multi-year construction project that received financial assistance from the Authority in a previous funding cycle.~~

~~ii. 80 points if the applicant requests financial assistance to construct a project that received pre-design or design financial or technical assistance from the Authority in a previous funding cycle.~~

~~iii. 40 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.~~

~~2. Project Benefits (PB) — The Authority shall award PB points up to a maximum of 200 points using the following formula:~~

~~PB = WQI + CI + CR, where:~~

~~WQI = Water Quality Improvement~~

~~CI = Conservation Index~~

~~CR = Consolidation & Regionalization~~

~~a. Water Quality Improvement (WQI) — The Authority shall award WQI points up to a maximum of 100 point from a combination of Surface Water Restoration and Surface Water Protection or a maximum of 100 points from Groundwater Protection as follows:~~

~~i. Surface Water Restoration~~

~~(1) 50 points if the project benefits a current Total Maximum Daily Load Implementation Plan.~~

~~(2) 40 points if the project benefits the development of a Total Maximum Daily Load Implementation Plan.~~

~~(3) 30 points if the project benefits a future Total Maximum Daily Load Implementation Plan.~~

~~(4) 20 points if the project indirectly addresses a Total Maximum Daily Load Implementation Plan.~~

~~(5) 10 bonus points if the project benefits a project funded by a Water Quality Improvement Grant from the Department.~~

~~ii. Surface Water Protection~~

~~(1) 50 points if the project benefits a waterbody identified by the Department as not supporting its designated use.~~

~~(2) 40 points if the project benefits a waterbody identified by the Department as in partial support of its des-~~

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- ignated use-
- (3) 30 points if the project benefits a waterbody by the Department as in full support of its designated use.
 - (4) 10 bonus points to projects that address a regional or local watershed plan to benefit water quality.
- iii. Groundwater Protection
- (1) 100 points if the project benefits a wellhead protection area for a community water system well.
 - (2) 75 points if the project benefits groundwater not meeting aquifer water quality standards.
 - (3) 50 points if the project benefits groundwater meeting aquifer water quality standards.
- b. Conservation Index (CI) — The Authority shall award Conservation Index points up to a maximum of 50 points as follows:
- i. 50 points if the project will generate Class A+ reclaimed water for direct or indirect reuse.
 - ii. 40 points if the project will generate Class A reclaimed water for direct or indirect reuse.
 - iii. 30 points if the project will generate Class B+ reclaimed water for direct or indirect reuse.
 - iv. 20 points if the project will generate Class B reclaimed water for direct or indirect reuse.
 - v. 10 points if the project will generate Class C reclaimed water for direct or indirect reuse.
 - vi. 0 points if the project will not generate reclaimed water for direct or indirect reuse.
- e. Consolidation & Regionalization (CR) — up to a maximum of 50 points as follows:
- i. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - ii. 20 points if the applicant is extending service to existing areas currently served by another facility.
 - iii. 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - iv. 5 points if the applicant is consolidating the ownership of existing multiple facilities.
3. Local Fiscal Capacity (LFC) — The Authority shall award LFC points up to a maximum of 100 points using the following formula:
 $LFC = MHI + UF + I + CE$, where:
 MHI = Median Household Income
 UF = User Fees
 I = Indebtedness
 CE = Cost Effectiveness
- a. Median Household Income (MHI) — The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
- i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is greater than or equal to 40% but less than 60% of the State's MHI.
 - iii. 20 points if the area's MHI is greater than or equal to 60% but less than 80% of the State's MHI.
 - iv. 10 points if the area's MHI is greater than or equal to 80% but less than 100% of the State's MHI.
 - v. 0 points if the area's MHI is greater than or equal to 100% of the State's MHI.
- b. User Fees (UF) — The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
- i. 20 points if the rates are more than 1.5% of the area's MHI.
 - ii. 10 points if the rates are from 1% to 1.5% of the area's MHI.
 - iii. 0 points if the rates are less than 1% of the area's MHI.
- c. Indebtedness (I) — The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
- i. 20 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 10 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.
- d. Cost Effectiveness (CE) — The Authority shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
- i. 20 points if CE is less than \$2,500 per benefitting connection.
 - ii. 10 points if CE is from \$2,500 to \$5,000 per benefitting connection.
 - iii. 0 points if CE is more than \$5,000 per benefitting connection.
- e. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority shall use an average of income areas to define the service area's median household income.
- B.** The Authority shall rank tied scores by placing the project with the lowest cost effectiveness ratio above all other tied projects.
- 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 pro-

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ceed. 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. ~~Fundable Range for~~ Clean Water Revolving Fund ~~Design~~ Application for Financial Assistance

- ~~A.~~ The Board shall adopt a Fundable Range for Design Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Design Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- ~~B.~~ The Authority shall prepare a draft and a final Fundable Range for Design Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-204 (D) through (F).
- ~~C.~~ The Board shall rank projects within the Fundable Range for Design Financial Assistance based on priority values obtained from the Priority List, the year the applicant requires funding, and the receipt of a complete Design Financial Application.
- ~~D.~~ The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:
 1. The project is on the Priority List;
 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects; and
 3. The additions are made by the Board at a public meeting.
- ~~E.~~ After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Design Financial Assistance under one or more of the following circumstances:
 1. The project has been removed from the Priority List;
 2. The project has received all design financial assistance from the fund requested by the applicant; or
 3. The applicant fails to proceed with the project.
- 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.
- B. The Authority shall not forward 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;
 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;
 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. ~~Fundable Range for~~ Clean Water Revolving Fund ~~Construction~~ Application Review for Financial Assistance

- ~~A.~~ The Board shall adopt a Fundable Range for Construction Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Construction Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- ~~B.~~ The Authority shall prepare a draft and a final Fundable Range for Construction Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-204(D) through (F).
- ~~C.~~ The Authority shall rank projects within the Fundable Range for Construction Financial Assistance based on priority values obtained from the following formula:
 $PV = MPLP + RP$, where:
 PV = Priority Value
 MPLP = Master Priority List Points
 RP = Readiness to Proceed
 1. The Authority shall award Master Priority List Points in accordance with R18-15-205.
 2. Readiness to Proceed (RP) — The Authority shall award RP points up to a maximum of 100 points as follows:
 - a. 40 points if the applicant has obtained debt authorization.
 - b. 30 points if the applicant has solicited the project for bidding.

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- e. 20 points if the applicant has the necessary plan and specification approvals.
- d. 10 points if the applicant has completed the project design.
- D.** The Board shall make additions to the Fundable Range for Construction Financial Assistance if each of the following conditions are met:
 - 1. The project is on the Priority List;
 - 2. The project scores a minimum of 40 RP points under (C) (2);
 - 3. Funds are available to cover the cost of the project and to honor funding commitments made to other projects; and
 - 4. The additions are made by the Board at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Construction Financial Assistance under one or more of the following circumstances:
 - 1. The project has been removed from the Priority List;
 - 2. The project has received all construction financial assistance from the fund requested by the applicant; or
 - 3. The applicant fails to proceed with the project.
- 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;
 - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year; 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;
 - 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.** 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.

R18-15-208. Clean Water Revolving Fund Requirements

- A.** The Authority shall identify Clean Water Revolving Fund requirements applicable to each project pursuant to the Clean Water Act, 33 U.S.C. §§ 1251 to 1387.
- B.** If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. The user charge system shall provide that a user discharging pollutants that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay proportionately for the increased cost. An applicant's user charge system, based on actual or estimated use of wastewater treatment services, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of treatment works within the applicant's service area, based on the user's proportionate contribution to the total wastewater loading from all users or user classes.

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- ~~C.~~ After a project is completed, the governmental unit shall use revenue from the project, including the sale of sludges, gases, liquids, crops, or revenue from leases, to offset the costs of operation and maintenance.
- ~~D-A.~~ The duly authorized agent, principal or officer of the applicant shall certify that ~~it~~ 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, ~~or design, or construction~~ work on a wastewater treatment facility project.
- ~~E-B.~~ First use and equivalency All projects shall comply with the provisions of the Civil Rights Act of 1964, Pub.L. 88-352, 42 U.S.C. § 2000(a) to 2000h-6, 2000d et seq., and all other applicable federal laws.

ARTICLE 3. DRINKING WATER REVOLVING FUND

R18-15-301. Types of Drinking Water Revolving Fund Financial Assistance Available Eligibility Criteria

- ~~A.~~ The Authority may use the Drinking Water Revolving Fund for any of the following purposes:
- ~~1. Financial assistance, which includes any of the following:~~
 - ~~a. Financial assistance loan repayment agreements consistent with § 1452 (a)(2)(f) of the Safe Drinking Water Act, 42 U.S.C. § 300j-12.~~
 - ~~b. The purchase or refinance of local debt obligations of political subdivisions that were incurred after July 1, 1993, if building began after that date.~~
 - ~~c. The guarantee or purchase of insurance for local obligations to improve credit market access or reduce interest rates.~~
 - ~~d. Security as a source of repayment of principal and interest on bonds issued by the Authority, provided that the net proceeds of the bonds are deposited in the fund.~~
 - ~~e. Guarantees of debt obligations by governmental units, which are issued to finance eligible projects.~~
 - ~~2. Technical assistance loan repayment agreements.~~
 - ~~3. Investments to earn interest to be deposited into the fund.~~
 - ~~4. Payments of costs to administer the fund.~~
 - ~~5. Other uses authorized by the Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25.~~
- ~~B.~~ The Authority shall describe projects and proposed financial assistance in the Drinking Water Revolving Fund Intended Use Plan, developed pursuant to R18-15-303.
- ~~C.~~ Pursuant to the Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25, 15% of available Drinking Water Revolving Fund financial assistance shall be available solely for drinking water facilities serving fewer than 10,000 persons consistent with the requirements for financial assistance within Article 3. On an annual basis, if there are insufficient requests for Drinking Water Revolving Fund financial assistance from drinking water facilities serving fewer than 10,000 persons, the Authority, through its Board, may direct the remainder of the 15% to all other drinking water facilities requesting financial assistance consistent with the requirements within Article 3.

To be eligible to receive financial assistance from the Drinking Water Revolving Fund, the applicant shall demonstrate that the applicant is a drinking water facility as defined by A.R.S. § 49-1201 requesting financial assistance for a purpose as defined in A.R.S. § 49-1243(A); the proposed project is to plan, design, construct, acquire, or improve a drinking water facility or refinance an eligible drinking water facility; and the proposed project appears on the Drinking Water Revolving Fund Project Priority List developed under R18-15-303.

R18-15-302. Eligibility Requirements for Financial Assistance

- ~~A.~~ To be eligible to receive financial assistance an applicant shall be a drinking water facility as defined by A.R.S. § 49-1201. An applicant shall propose a project to: plan, design, construct, acquire, or improve a drinking water facility, or refinance an eligible drinking water facility.
- ~~B.~~ A project eligible under subsection (A) shall also meet all of the following requirements before receiving financial assistance:
- ~~1. The project shall appear on the Drinking Water Revolving Fund Priority List developed under R18-15-304.~~
 - ~~2. The applicant shall demonstrate legal capability under R18-15-103.~~
 - ~~3. The applicant shall demonstrate financial capability under R18-15-104.~~
 - ~~4. The applicant shall demonstrate technical capability under R18-15-105.~~
 - ~~5. The applicant shall demonstrate managerial and institutional capability under R18-15-106.~~
 - ~~6. The applicant shall demonstrate completion of the environmental review process under R18-15-107.~~
 - ~~7. The applicant shall obtain or be in the process of obtaining all permits and approvals required by federal, state, and local authorities.~~
- ~~C.~~ The Authority, through its Board, shall provide financial assistance to eligible applicants for proposed projects in priority order according to the priority list developed under R18-15-304. If the Board determines that an applicant will not be able to proceed with a project in a manner consistent with the Drinking Water Revolving Fund Intended Use Plan, the Board shall bypass that project. The Board shall provide written notice to the applicant that the project has been bypassed. The Board shall replace the bypassed project with the next project on the Drinking Water Revolving Fund Priority List in rank order that is ready to accept financial assistance.

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R18-15-303. R18-15-302. Drinking Water Revolving Fund Intended Use Plan

- A.** The Authority annually shall develop and publish an a Drinking Water Revolving Fund Intended Use Plan for each funding cycle in which it anticipates that it will provide financial assistance for eligible projects that identifies the intended uses of funds available in the Drinking Water Revolving Fund Program. At a minimum, the The Intended Use Plan shall include a Priority List, a Fundable Range for Design Financial Assistance, and a Fundable Range for Construction Financial Assistance and shall identify the projects by eligible applicant, project name, type of project, type of financial assistance, amount of financial assistance, population served by the project, and estimated interest rates to be charged the project priority list according to R18-15-303. The Intended Use Plan shall be prepared after providing for public comment and review. If an Intended Use Plan is to be submitted as one of the documents required to obtain a federal capitalization grant under the Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25 300j-26, the Intended Use Plan shall include any additional information required by federal law.
- B.** The Authority shall provide for a public review and written comment period of the draft Drinking Water Revolving Fund Intended Use Plan 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 Plan and then adopt the Drinking Water Revolving Fund Intended Use Plan at a public meeting.

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 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, 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; 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.
- E.** After an opportunity for public comment at a public meeting, 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 the project priority list for more than 365 days.

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

- A.** The Board shall adopt a Drinking Water Revolving Fund Priority List for the funding cycle described in the Intended Use Plan. The Board shall not adopt a new list for years where funds are not adequate to assist any projects.

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- ~~B.~~ If the Drinking Water Revolving Fund Priority List is required pursuant to subsection (A), the Authority shall rank the projects by priority points and the year the applicant requests project assistance.
- ~~C.~~ An applicant, desiring placement on the Drinking Water Revolving Fund Priority List, shall make its request for placement of one or more proposed projects on or before a date specified by the Authority. If requesting placement on the Drinking Water Revolving Fund Priority List, an applicant shall submit information within an application format specified by the Authority.
- ~~D.~~ The Authority shall prepare a draft Drinking Water Revolving Fund Priority List. In developing a draft Priority List, the Authority shall consider all requests submitted under subsection (B), all requests made by regulatory authorities, all plans prepared under the Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25, and the most recently adopted Drinking Water Revolving Fund Priority List.
- ~~E.~~ The Authority shall hold a public meeting to receive comments on the draft Priority List. The Authority shall publish a notice of the public meeting in newspapers statewide at least 14 days before the meeting date and make copies of the draft Drinking Water Revolving Fund Priority List available to the public at least 7 days before the meeting date.
- ~~F.~~ The Authority shall consider all comments submitted in writing before the meeting, given orally at the meeting, submitted in writing at the meeting, or submitted subsequent to the meeting but before the close of the written comment period. The Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. After the Authority summarizes the comments received and prepares responses, the Board shall adopt the final Drinking Water Revolving Fund Priority List.
- ~~G.~~ The Board shall make additions to the final Drinking Water Revolving Fund Priority List if both of the following conditions are met:
 - 1. The project scores a minimum of 40 points under R18-15-307(C)(2), and
 - 2. The additions are made by the Board at a public meeting.
- ~~H.~~ After an opportunity for public comment at a public meeting, the Board may make modifications to the Drinking Water Revolving Fund Priority List, based on changes in circumstances under R18-15-307(C)(2).
- ~~I.~~ After an opportunity for public comment at a public meeting, the Board may remove a project from the Drinking Water Revolving Fund Priority List under one or more of the following circumstances:
 - 1. The project has received all financial assistance from the fund requested by the applicant;
 - 2. The project has been financed with long-term indebtedness from another source;
 - 3. The project is no longer an eligible project;
 - 4. The applicant requests removal; or
 - 5. The applicant is no longer an eligible applicant.
- A. The Authority shall rank each project listed on the Drinking Water Revolving Fund Project Priority List based on the priority value of each project. The Authority shall consider the following categories to determine the priority value of each project:
 - 1. The Authority shall evaluate the current conditions of the system through the system's rank 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), the Authority shall give priority to the project with the highest current condition value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest water system improvement value 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, the Board shall determine the priority of the tied projects.
- C. The Authority shall determine the subsidy rate index for each project on the Drinking Water 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.

R18-15-305. Ranking Criteria for the Drinking Water Revolving Fund Priority List Fundable Range for Financial Assistance

- ~~A.~~ The Authority, through its Board, shall rank projects using priority values obtained from the following formula:

$$PV = EC + PB + LFC$$
 where:
 PV = Priority Value
 EC = Existing Conditions

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PB = Project Benefits

LFC = Local Fiscal Capacity

1. Existing Conditions (EC) — The Authority shall award EC points up to a maximum of 200 points, using the following formula:

$EC = CC + PYF$, where:

CC = Current Conditions

PYF = Prior Year Funding

- a. Current Conditions (CC) — The Authority shall award CC points up to a maximum of 100 points as follows:
 - i. 100 points if the applicant's system is at or above the 80th percentile of the community water systems on the Department's Master Priority List.
 - ii. 80 points if the applicant's system is at or above the 60th percentile but less than the 80th percentile of the community water systems on the Department's Master Priority List.
 - iii. 60 points if the applicant's system is at or above the 40th percentile but less than the 60th percentile of the community water systems on the Department's Master Priority List.
 - iv. 40 points if the applicant's system is at or above the 20th percentile but less than the 40th percentile of the community water systems on the Department's Master Priority List.
 - v. 20 points if the applicant's system is less than the 20th percentile of the community water systems on the Department's Master Priority List.
 - vi. 0 points if the applicant's system is not listed on the Department's Master Priority List.
- b. Prior Year Funding (PYF) — The Authority shall award PYF points up to a maximum of 100 points with only 1 set of points awarded as follows:
 - i. 100 points if the applicant requests additional financial assistance for a multi-year construction project that received financial assistance from the Authority in a previous funding cycle.
 - ii. 80 points if the applicant requests financial assistance to construct a project that received pre design or design financial or technical assistance from the Authority in a previous funding cycle.
 - iii. 40 points if the applicant requests additional financial assistance to offset actual costs or justified overruns.

2. Project Benefits (PB) — The Authority shall award PB points up to a maximum of 200 points, using the following formula:

$PB = WSI + CR$, where:

WSI = Water System Improvement

CR = Consolidation & Regionalization

- a. Water System Improvement (WSI) — The Authority shall award WSI points up to a maximum of 150 points from the following categories:
 - i. A maximum of 100 points if the applicant's proposed project addresses deficiencies identified by the Department on the Department's Master Priority List.
 - ii. 25 points if the applicant submitted a complete Capacity Development Plan to the Department.
 - iii. 25 points if the proposed project includes installing meters to monitor water use.
- b. Consolidation & Regionalization (CR) — The Authority shall award CR points up to a maximum of 50 points as follows:
 - i. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - ii. 20 points if the applicant is extending service to existing areas currently served by another facility.
 - iii. 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - iv. 5 points if the applicant is consolidating the ownership of existing multiple facilities.

3. Local Fiscal Capacity (LFC) — The Authority shall award LFC points up to a maximum of 100 points, using the following formula:

$LFC = MHI + UF + I + CE$, where:

MHI = Median Household Income

UF = User Fees

I = Indebtedness

CE = Cost Effectiveness

- a. Median Household Income (MHI) — The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is greater than or equal to 40% but less than 60% of the State's MHI.
 - iii. 20 points if the area's MHI is greater than or equal to 60% but less than 80% of the State's MHI.
 - iv. 10 points if the area's MHI is greater than or equal to 80% but less than 100% of the State's MHI.
 - v. 0 points if the area's MHI is greater than or equal to 100% of the State's MHI.
- b. User Fees (UF) — The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:

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- i. 20 points if the rates are more than 1.5% of the area's MHI.
 - ii. 10 points if the rates are from 1% to 1.5% of the area's MHI.
 - iii. 0 points if the rates are less than 1% of the area's MHI.
 - e. Indebtedness (I) — The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
 - i. 20 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 10 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.
 - d. Cost Effectiveness (CE) — The Authority shall divide the estimated costs of construction by the number of benefitting connections (Construction Costs/# of Benefitting Connections) to award points as follows:
 - i. 20 points if CE is less than \$2,500 per benefitting connection.
 - ii. 10 points if CE is from \$2,500 to \$5,000 per benefitting connection.
 - iii. 0 points if CE is more than \$5,000 per benefitting connection.
 - e. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority shall use an average of the income areas to define the service area's median household income.
- B.** The Authority shall rank tied scores by placing the project with the lowest cost effectiveness ratio above all other tied projects.
- 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. ~~Fundable Range for Drinking Water Revolving Fund Design~~ Application for Financial Assistance

- A.** The Board shall adopt a Fundable Range for Design Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Design Financial Assistance for funding cycles in which funds are not adequate to assist any projects.
- B.** The Authority shall prepare a draft and a final Fundable Range for Design Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-304(D) through (F).
- C.** The Board shall rank projects within the Fundable Range for Design Financial Assistance based on priority values obtained from the Priority List, the year the applicant requires funding, and the receipt of a complete Design Finance Application.
- D.** The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:
- 1. The project is on the Priority List;
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects; and
 - 3. The additions are made by the Board at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Design Financial Assistance under one or more of the following circumstances:
- 1. The project has been removed from the Priority List.
 - 2. The project has received all design financial assistance from the fund requested by the applicant.
 - 3. The applicant fails to proceed with the project.
- 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 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;
 - 2. The applicant has provided supporting documentation according to R18-15-305(B);
 - 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.

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- 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. ~~Fundable Range for Drinking Water Revolving Fund Construction~~ Application Review for Financial Assistance

- A.** ~~The Board shall adopt a Fundable Range for Construction Financial Assistance based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for Construction Financial Assistance for funding cycles in which funds are not adequate to assist any projects.~~
- B.** ~~The Authority shall prepare a draft and a final Fundable Range for Construction Financial Assistance at the same time and in the same manner as the Priority List in accordance with R18-15-304(D) through (F).~~
- C.** ~~The Authority shall rank projects within the Fundable Range for Construction Financial Assistance based on priority values obtained from the following formula:~~
~~PV = MPLP + RP, where:~~
~~PV = Priority Value~~
~~MPLP = Master Priority List Points~~
~~RP = Readiness to Proceed~~
- ~~1. The Authority shall award Priority List Points in accordance with R18-15-305.~~
- ~~2. Readiness to Proceed (RP) — The Authority shall award RP points for readiness for applicant to proceed with the project up to a maximum of 100 points as follows:~~
- ~~a. 40 points if the applicant has obtained debt authorization.~~
- ~~b. 30 points if the applicant has solicited the project for bidding.~~
- ~~c. 20 points if the applicant has the necessary plan and specification approvals.~~
- ~~d. 10 points if the applicant has completed the project design.~~
- D.** ~~The Board shall make additions to the Fundable Range for Design Financial Assistance if each of the following conditions are met:~~
- ~~1. The project is on the Priority List,~~
- ~~2. The project scores a minimum of 40 RP points under to R18-15-307(C)(2),~~
- ~~3. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and~~
- ~~4. The additions are made by the Board at a public meeting.~~
- E.** ~~After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range for Construction Financial Assistance under one or more of the following circumstances:~~
- ~~1. The project has been removed from the Priority List,~~
- ~~2. The project has received all construction financial assistance from the fund requested by the applicant, or~~
- ~~3. The applicant fails to proceed with the project.~~
- 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,
- b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year, 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;
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.** 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

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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.

R18-15-308. Drinking Water Revolving Fund Requirements

- A.** ~~The Authority shall identify Drinking Water Revolving Fund requirements applicable to each project under the Safe Drinking Water Act, 42 U.S.C. § 300f to 300j-25.~~
- B.** ~~If applicable, the applicant shall design a user charge system to produce adequate revenues for operation and maintenance, including replacement. An applicant's user charge system, based on actual or estimated use of the drinking water facilities, shall provide that each user or user class pays its proportionate share of operation and maintenance, including replacement costs of facilities within the applicant's service area, based on the user's proportionate use of the facilities.~~
- C.** ~~**A.** The duly authorized agent, principal or officer of the applicant shall certify that it 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, or design, or construction work on a project.~~
- B.** All projects shall comply with the provisions of the Civil Rights Act of 1964, P.L. 88-352, 42 U.S.C. 2000d et seq., and all other applicable federal laws.

ARTICLE 4. ~~OTHER FINANCIAL ASSISTANCE~~ WATER SUPPLY DEVELOPMENT REVOLVING FUND

R18-15-401. ~~Types of Water Supply Development Revolving Fund Financial Assistance Available~~ Eligibility Criteria

- A.** ~~The Authority may issue Water Quality Bonds on behalf of eligible applicants for any of the following types of financial assistance:~~
- ~~1. Loans.~~
 - ~~2. The purchase or refinance of local debt obligations.~~
- B.** ~~The Authority may guarantee or purchase insurance for local obligations to improve credit market access or reduce interest rates for eligible applicants.~~

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) 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 developed under R18-15-403.

R18-15-402. ~~Eligibility Requirements for Financial Assistance~~ Water Supply Development Revolving Fund Intended Use Plan

- A.** ~~To be eligible to receive financial assistance, an applicant shall propose a project to: plan, design, construct, improve, acquire, or refinance a wastewater facility, a drinking water facility, or a nonpoint source project.~~
- B.** ~~A project eligible under subsection (A) shall also meet all of the following requirements prior to receiving financial assistance:~~
- ~~1. The applicant shall demonstrate legal capability pursuant to R18-15-103.~~
 - ~~2. The applicant shall demonstrate financial capability pursuant to R18-15-104.~~
 - ~~3. The applicant shall demonstrate technical capability pursuant to R18-15-105.~~
 - ~~4. The applicant shall demonstrate managerial and institutional capability pursuant to R18-15-106.~~
 - ~~5. The applicant shall demonstrate completion of the environmental review process pursuant to R18-15-107.~~
 - ~~6. The applicant shall demonstrate readiness to proceed pursuant to R18-15-108.~~
 - ~~7. The applicant shall obtain or be in the process of obtaining all applicable permits and approvals required by federal, state, and local authorities.~~
- 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

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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. ~~Repealed~~ Water Supply Development Revolving Fund Project Priority List

- A.** The Authority annually shall prepare a Water Supply Development Revolving Fund Project Priority 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 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.** 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. The applicant may request that multiple projects be placed on the Water Supply Development Revolving Fund Project Priority List. An applicant shall make a request for placement of a project on the Water Supply Development 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 R18-15-404(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, 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 priority value of each project according to R18-15-404. At a minimum, the Water Supply Development Revolving Fund Project Priority List shall identify:
1. The applicant.
 2. Project title.
 3. Type of project.
 4. Population of water provider's service area.
 5. The amount requested for financial assistance.
 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. The rank of each project by the priority value, determined according to R18-15-404.
- D.** After adoption of the annual Intended Use Plan and Water Supply Development Revolving Fund Project Priority List according to R18-15-402, the Committee may allow:
1. Updates and corrections to the adopted Water Supply Development Revolving Fund Project Priority List, if the updates and corrections are adopted by the Committee after an opportunity for public comment at a public meeting; or
 2. Additions to the Water Supply Development Revolving Fund Project Priority List, if the additions are adopted by the Committee after an opportunity for public comment at a public meeting.
- E.** After an opportunity for public comment at a public meeting, the Committee may remove a project from the Water Supply Development 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 the project priority list for more than 365 days.

R18-15-404. 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 priority value of each project.
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.
- B.** If two or more projects have the same rank according to subsection (A), the Authority shall give priority to the project with the highest water demand value under subsection (A)(1). If projects remain tied, priority will be given to the project with the highest conservation and water management value under subsection (A)(2). If projects remain tied, this process

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shall continue through the categories under subsections (A)(3) through (5), sequentially. If projects continue to have the same priority value, the Committee 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. Water Supply Development Revolving Fund Fundable Range for Financial Assistance

- 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. 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 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-adopted Water Supply Development Fund Project Priority List.
- B.** The Authority shall not forward an application for financial assistance to the Committee 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);
 3. The applicant has demonstrated legal capability, financial capability, technical capability, and managerial capability under R18-15-104;
 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. 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. 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;
 - b. An estimate of the amount of money that will be collected through the dedicated revenue source for repayment for the current fiscal year, 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;
 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 shall make a determination regarding the applicant's request for financial assistance at a public meeting. The Committee 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 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

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4. The structure of the financial assistance request.
- C.** If the Committee 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 that the Authority is no longer accepting applications. The Committee shall determine the amount of funding available, if any, to provide financial assistance for the applications by the Authority. The Committee 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. The Committee shall make a determination as described in subsection (B) on each application until the available funds are committed.
- D.** Upon Committee 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. 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. Eligibility Requirements for Project Technical Assistance

- A.** To be eligible to receive project technical assistance, an applicant shall own or operate a drinking water or wastewater system eligible for financial assistance under A.R.S. §§ 49-1223(A)(1) or 49-1243(A)(1).
- B.** A project eligible under subsection (A) shall also meet both of the following requirements:
1. Proposed project technical assistance will assist the system to achieve technical capability pursuant to R18-15-105, managerial and institutional capability pursuant to R18-15-106, or financial capability pursuant to R18-15-104; and
 2. Proposed project technical assistance will facilitate the design, construction, acquisition, improvement, or consolidation of a drinking water or wastewater system.
- C.** The Authority shall provide project technical assistance to eligible applicants in priority order according to the priority lists developed pursuant to this Article.

R18-15-501. R18-15-502. Technical Assistance Intended Use Plan

- A.** The Authority annually shall develop and publish a one or more Technical Assistance Intended Use Plan Plans for each funding cycle in which it anticipates that it will fund technical assistance 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, Drinking Water, and Water Supply Development. The Authority may develop Technical Assistance Intended Use Plans separately for Clean Water, Drinking Water, and Water Supply Development or as parts of the Intended Use Plans required under R18-15-202, 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. At a minimum, the Technical Assistance Intended Use Plan shall include:
1. Descriptions of the types of technical assistance the Authority expects to fund including operational, policy, and project technical assistance;
 2. Sources and uses of funds for technical assistance;
 3. A Priority List for Clean Water Project Technical Assistance;
 4. A Fundable Range for Clean Water Project Technical Assistance Grants;
 5. A Fundable Range for Clean Water Project Technical Assistance Loans;
 6. A Priority List for Drinking Water Project Technical Assistance;
 7. A Fundable Range for Drinking Water Project Technical Assistance Grants; and
 8. A Fundable Range for Drinking Water Project Technical Assistance Loans.
- B.** The Authority shall adopt provide for a public review and written comment period of the any draft Technical Assistance Intended Use Plan after providing for public comment and review 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

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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. ~~Types of Project Technical~~ Clean Water Planning and Design Assistance Available Grants

~~The Authority may award project technical assistance in any one or a combination of the following forms:~~

- ~~1. Project technical assistance grants to local units of government. If consultants are required to complete the project technical assistance, the grant agreement shall specify that the local unit of government is required to select and pay consultants in accordance with applicable procurement requirements.~~
 - ~~2. Consultants selected and paid by the Authority to provide project technical assistance on behalf of the recipient of the project technical assistance award.~~
 - ~~3. Project technical assistance loans subject to terms and conditions approved by the Board.~~
- 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. 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 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 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 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.
- 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.
- 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 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.

R18-15-504. ~~Clean Drinking Water Project Technical~~ Planning and Design Assistance Priority List Grants

A. The Board shall adopt the Clean Water Project Technical Assistance Priority List for the funding cycle described in the

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Technical Assistance Intended Use Plan. The Board shall not adopt a list for a funding cycle in which funds are not adequate to assist any projects.

- B.** If the Clean Water Project Technical Assistance Priority List is required pursuant to subsection (A), the Authority shall rank the projects by priority points and the year the applicant requests project technical assistance.
- C.** An applicant seeking placement on the Clean Water Project Technical Assistance Priority List shall make a request for placement of one or more proposed projects on or before a date specified by the Authority. If requesting placement on the Clean Water Project Technical Assistance Priority List, an applicant shall submit an application specified by the Authority.
- D.** The Authority shall prepare a draft Clean Water Project Technical Assistance Priority List and shall hold at least one public meeting to receive comments on the list and make copies of the draft list available to the public at least seven days before the meeting date.
- E.** The Authority shall consider all comments given orally at the public meeting or submitted in writing before the close of the written comment period. The Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. After the Authority summarizes the comments received and prepares responses, the Board shall adopt the final Clean Water Project Technical Assistance Priority List.
- F.** Throughout the funding cycle, the Board shall make additions after the adoption of the final Clean Water Project Technical Assistance Priority List if each of the following conditions are met:

 - 1. The project scores a minimum of 50 points under R18-15-505(A)(1).
 - 2. The additions are made at a public meeting of the Board.
- G.** After an opportunity for public comment at a public meeting, the Board may make modifications to the Clean Water Project Technical Assistance Priority List based on changes to existing conditions pursuant to R18-15-505(A)(1).
- H.** After an opportunity for public comment at a public meeting of the Board, the Board may remove a project from the Clean Water Project Technical Assistance Priority List under one or more of the following circumstances:

 - 1. The applicant has completed the technical assistance project,
 - 2. The project is no longer an eligible project,
 - 3. The applicant requests removal, or
 - 4. The applicant is no longer an eligible applicant.
- I.** The Authority shall provide clean water project technical assistance to eligible applicants for proposed projects in priority order according to the Clean Water Project Technical Assistance Priority List developed pursuant to this Section. If the Authority determines that an applicant will not be able to proceed with a project, the Board shall bypass that project. The Authority shall provide written notice to the applicant that the project has been bypassed. The Authority shall replace the bypassed project with the next project on the Clean Water Project Technical Assistance Priority List in rank order that is ready to accept technical assistance.
- 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 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 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.

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- L.** 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.
- 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 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. ~~Ranking Criteria for Clean Water Supply Development Planning and Design Project Technical Assistance Priority List Grants~~

- A.** ~~The Authority, through its Board, shall rank projects using priority values obtained from the following formula:
 $PV = EC + PB + LFC$, where:-
 PV = Priority Value
 EC = Existing Conditions
 PB = Project Benefits
 LFC = Local Fiscal Capacity~~
 - 1. ~~Existing Conditions (EC) — The Authority shall award EC points up to a maximum of 200 points using the following formula:
 $EC = CC + PYF$, where:-
 CC = Current Conditions
 PYF = Prior Year Funding~~
 - a. ~~Current Conditions (CC) — The Authority shall award CC points up to a maximum of 100 points using only one of the following categories:~~
 - i. ~~Surface Water Pollution (Sewerage Facilities):~~
 - (1) ~~100 points if the project corrects a sewer overflow.~~
 - (2) ~~80 points if the project corrects a wastewater treatment facility non-compliance.~~
 - (3) ~~60 points if the project corrects excessive inflow and infiltration.~~
 - (4) ~~40 points if the project repairs a lift or pump station.~~
 - ii. ~~Untreated or Uncontrolled Runoff (shown to be polluting either surface or ground water):~~
 - (1) ~~100 points if the project constructs or repairs a stormwater treatment or management facility.~~
 - (2) ~~80 points if the projects implements agricultural best management practices.~~
 - (3) ~~60 points if the project involves landfill capping.~~
 - (4) ~~40 points if the project is non-traditional.~~
 - iii. ~~Groundwater Pollution~~
 - (1) ~~100 points if the project corrects onsite wastewater systems shown to be polluting either surface or ground water.~~
 - (2) ~~50 points if the project corrects surface or ground water pollution from sources other than onsite wastewater systems.~~
 - b. ~~Prior Year Funding (PYF) — The Authority shall award PYF points up to a maximum of 100 points with only one set of points awarded as follows:~~
 - i. ~~100 points if the applicant requests project technical assistance to design a project that received pre-design project technical assistance from the Authority in a previous funding cycle.~~
 - ii. ~~50 points if the applicant requests additional technical assistance to offset actual costs or justified overruns.~~
 - 2. ~~Project Benefits (PB) — For requests for pre-design project technical assistance the Authority shall award PB points up to a maximum of 200 points as follows:~~
 - a. ~~200 points if the project receives a combined score of 160 to 200 points for Current Conditions pursuant to R18-15-505(A)(1) and Local Fiscal Capacity pursuant to R18-15-505(A)(4).~~
 - b. ~~150 points if the project receives a combined score of 120 to 159 points for Current Conditions pursuant to R18-15-505(A)(1) and Local Fiscal Capacity pursuant to R18-15-505(A)(4).~~
 - c. ~~100 points if the project receives a combined score of 80 to 119 points for Current Conditions pursuant to R18-15-505(A)(1) and Local Fiscal Capacity pursuant to R18-15-505(A)(4).~~

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- d. 50 points if the project receives a combined score of 40 to 79 points for Current Conditions pursuant to R18-15-505(A)(1) and Local Fiscal Capacity pursuant to R18-15-505(A)(4).
- e. 0 points if the project receives a combined score of fewer than 40 points for Current Conditions pursuant to R18-15-505(A)(1) and Local Fiscal Capacity pursuant to R18-15-505(A)(4).
- 3. Project Benefits (PB) — For requests for design project technical assistance, the Authority shall award points up to a maximum of 200 points using the following formula:
 $PB = WQI + CI + CR$, where:
 WQI = Water Quality Improvement
 CI = Conservation Index
 CR = Consolidation & Regionalization
 - a. Water Quality Improvement (WQI) — The Authority shall award WQI points up to a maximum of 100 points from a combination of Surface Water Restoration and Surface Water Protection or a maximum of 100 points from Groundwater Protection as follows:
 - i. Surface Water Restoration
 - (1) 50 points if the project benefits a current Total Maximum Daily Load Implementation Plan.
 - (2) 40 points if the project benefits the development of a Total Maximum Daily Load Implementation Plan.
 - (3) 30 points if the project benefits a future Total Maximum Daily Load Implementation Plan.
 - (4) 20 points if the project indirectly addresses a Total Maximum Daily Load Implementation Plan.
 - (5) 10 bonus points if the project benefits a project funded by a Water Quality Improvement Grant from the Department.
 - ii. Surface Water Protection
 - (1) 50 points if the project benefits a waterbody identified by the Department as not supporting its designated use.
 - (2) 40 points if the project benefits a waterbody identified by the Department as in partial support of its designated use.
 - (3) 30 points if the project benefits a waterbody by the Department as in full support of its designated use.
 - (4) 10 bonus points to projects that address a regional or local watershed plan to benefit water quality.
 - iii. Groundwater Protection
 - (1) 100 points if the project benefits a wellhead protection area for a community water system well.
 - (2) 75 points if the project benefits groundwater not meeting aquifer water quality standards.
 - (3) 50 points if the project benefits groundwater meeting aquifer water quality standards.
 - b. Conservation Index (CI) — The Authority shall award Conservation Index points up to a maximum of 50 points as follows:
 - i. 50 points if the project will generate Class A+ reclaimed water for direct reuse.
 - ii. 40 points if the project will generate Class A reclaimed water for direct reuse.
 - iii. 30 points if the project will generate Class B+ reclaimed water for direct reuse.
 - iv. 20 points if the project will generate Class B reclaimed water for direct reuse.
 - v. 10 points if the project will generate Class C reclaimed water for direct reuse.
 - vi. 0 points if the project will not generate reclaimed water for direct reuse.
 - c. Consolidation & Regionalization (CR) — The Authority shall award CR points up to a maximum of 50 points as follows:
 - i. 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - ii. 20 points if the applicant is extending service to existing areas currently served by another facility.
 - iii. 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - iv. 5 points if the applicant is consolidating the ownership of existing multiple facilities.
- 4. Local Fiscal Capacity (LFC) — The Authority shall award LFC points up to a maximum of 100 points using the following formula:
 $LFC = MHI + UF + I$, where:
 LFC = Local Fiscal Capacity
 MHI = Median Household Income
 UF = User Fees
 I = Indebtedness
 - a. Median Household Income (MHI) — The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is greater than or equal to 40% but less than 60% of the State's MHI.
 - iii. 20 points if the area's MHI is greater than or equal to 60% but less than 80% of the State's MHI.
 - iv. 10 points if the area's MHI is greater than or equal to 80% but less than 100% of the State's MHI.
 - v. 0 points if the area's MHI is greater than or equal to 100% of the State's MHI.

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- b. ~~User Fees (UF) — The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:~~
 - i. ~~30 points if the rates are more than 1.5% of the area's MHI.~~
 - ii. ~~15 points if the rates are from 1% to 1.5% of the area's MHI.~~
 - iii. ~~0 points if the rates are less than 1% of the area's MHI.~~
 - e. ~~Indebtedness (I) — The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:~~
 - i. ~~30 points if the existing and proposed indebtedness is more than 1% of the area's MHI.~~
 - ii. ~~15 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.~~
 - iii. ~~0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.~~
 - d. ~~The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority shall use an average of income areas to define the service area's median household income.~~
- B.** The Authority shall rank tied scores by placing the project with the highest Local Fiscal Capacity points pursuant to R18-15-505(A)(4) above all other tied projects.
- 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 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 for review and approval at a public meeting. The Committee 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.
- 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 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.

R18-15-506. ~~Fundable Range for Clean Water Project Technical Assistance Grants Repealed~~

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- ~~A.~~ The Board shall adopt a Fundable Range for Clean Water Project Technical Assistance Grants based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles in which funds are not adequate to assist any projects.
- ~~B.~~ The Authority shall prepare a draft and a final Fundable Range at the same time and in the same manner as the Priority List for Clean Water Project Technical Assistance in accordance with R18-15-504(D) and (E).
- ~~C.~~ The Board shall rank projects within the Fundable Range based on priority values obtained from the Priority List for Clean Water Project Technical Assistance and the year the applicant requires funding. The Fundable Range addressed by this Section is limited to systems serving fewer than 10,001 people.
- ~~D.~~ As a guide to award project technical assistance grants or consultant contributions, the Board may require applicants to contribute to fund total project costs as follows, based on ability to contribute:
 - 1. 25% contribution towards total project costs if the project received 70 or more points for Local Fiscal Capacity pursuant to R18-15-505(A)(4).
 - 2. 50% contribution towards total project costs if the project received fewer than 70 but at least 50 points for Local Fiscal Capacity pursuant to R18-15-505(A)(4).
 - 3. 75% contribution towards total project costs if the project received fewer 50 but at least 30 points for Local Fiscal Capacity pursuant to R18-15-505(A)(4).
 - 4. If the applicant receives fewer than 30 points for Local Fiscal Capacity pursuant to R18-15-505(A)(4), the applicant may still be eligible for a project technical assistance loan under R18-15-507.
 - 5. An applicant's contribution can include cash contributions, in-kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority. The Board may waive or modify the applicant's contribution for total project costs if the Board determines, at a public meeting, that the applicant is unable to fund the contribution in accordance with this subsection.
- ~~E.~~ The Board shall make additions to the Fundable Range if each of the following conditions are met:
 - 1. The project is on the Priority List for Clean Water Project Technical Assistance,
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 3. The additions are made by the Board at a public meeting.
- ~~F.~~ After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under one or more of the following circumstances:
 - 1. The project has been removed from the Priority List for Clean Water Project Technical Assistance,
 - 2. The project has received all technical assistance requested by the applicant, or
 - 3. The applicant fails to proceed with the project.

R18-15-507. Fundable Range for Clean Water Project Technical Assistance Loans Repealed

- ~~A.~~ The Board shall adopt a Fundable Range for Clean Water Project Technical Assistance Loans based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles in which funds are not adequate to assist any projects.
- ~~B.~~ The Authority shall prepare a draft and a final Fundable Range at the same time and in the same manner as the Priority List for Clean Water Project Technical Assistance in accordance with R18-15-504(D) and (E).
- ~~C.~~ The Authority shall rank projects within the Fundable Range based on priority values obtained from the Priority List for Clean Water Project Technical Assistance and the year the applicant requires funding.
- ~~D.~~ The Authority shall only provide project technical assistance loans to applicants eligible under this Section.
- ~~E.~~ The Board shall make additions to the Fundable Range if each of the following conditions are met:
 - 1. The project is on the Priority List for Clean Water Project Technical Assistance,
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 3. The additions are made by the Board at a public meeting.
- ~~F.~~ After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under one or more of the following circumstances:
 - 1. The project has been removed from the Priority List for Clean Water Project Technical Assistance,
 - 2. The project has received all technical assistance requested by the applicant, or
 - 3. The applicant fails to proceed with the project.

R18-15-508. Drinking Water Project Technical Assistance Priority List Repealed

- ~~A.~~ The Board shall adopt a Drinking Water Project Technical Assistance Priority List for the funding cycle described in the Technical Assistance Intended Use Plan. The Board shall not adopt a list for a funding cycle in which funds are not adequate to assist any projects.
- ~~B.~~ If a Drinking Water Project Technical Assistance Priority List is required under subsection (A), the Authority shall rank the projects by priority points and the year the applicant requests project technical assistance.
- ~~C.~~ An applicant seeking placement on the Drinking Water Project Technical Assistance Priority List shall make a request for placement of one or more proposed projects on or before a date specified by the Authority. If requesting placement on the Drinking Water Project Technical Assistance Priority List, an applicant shall submit an application specified by the Board.

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- ~~D.~~ The Authority shall prepare a draft Drinking Water Project Technical Assistance Priority List and shall hold at least one public meeting to receive comments on the list and make copies of the draft list available to the public at least seven days before the meeting date.
- ~~E.~~ The Authority shall consider all comments given orally at the public meeting or submitted in writing before the close of the written comment period. The Authority shall establish a written comment period and shall publish the date upon which the comment period closes in the meeting notice. After the Authority summarizes the comments received and prepares responses, the Board shall adopt the final Drinking Water Project Technical Assistance Priority List.
- ~~F.~~ Throughout the funding cycle, the Board shall make additions after the adoption of the final Drinking Water Project Technical Assistance Priority List if both of the following conditions are met:
 - 1. The project scores a minimum of 50 points pursuant to R18-15-509(A)(1), and
 - 2. The additions are made at a public meeting of the Board.
- ~~G.~~ After an opportunity for public comment at a public meeting, the Board may make modifications to the Drinking Water Project Technical Assistance Priority List based on changes to the existing conditions under R18-15-509(A)(1).
- ~~H.~~ After an opportunity for public comment at a public meeting of the Board, the Board shall remove a project from the Drinking Water Project Technical Assistance Priority List under one or more of the following circumstances:
 - 1. The applicant has completed the technical assistance project;
 - 2. The project is no longer an eligible project;
 - 3. The applicant requests removal; or
 - 4. The applicant is no longer an eligible applicant.
- ~~I.~~ The Authority shall provide project technical assistance to eligible applicants for proposed projects in priority order according to the Drinking Water Project Technical Assistance Priority List developed under this Section. If the Authority determines that an applicant will not be able to proceed with a project, the Board shall bypass that project. The Authority shall provide written notice to the applicant that the project has been bypassed. The Authority shall replace the bypassed project with the next project on the Drinking Water Project Technical Assistance Priority List in rank order that is ready to accept technical assistance.

R18-15-509. Priority List Ranking Criteria for Drinking Water Project Technical Assistance Repealed

- ~~A.~~ The Authority, through its Board, shall rank projects using priority values obtained from the following formula:
 $PV = EC + PB + LFC$, where:
 PV = Priority Value
 EC = Existing Conditions
 PB = Project Benefits
 LFC = Local Fiscal Capacity
 - 1. Existing Conditions (EC) — The Authority shall award EC points up to a maximum of 200 points using the following formula:
 $EC = CC + PYF$, where:
 CC = Current Conditions
 PYF = Prior Year Funding
 - a. Current Conditions (CC) — The Authority shall award CC points up to a maximum of 100 points as follows:
 - i. 100 points if the applicant's system is at or above the 80th percentile of the community water systems on the Department's Master Priority List.
 - ii. 80 points if the applicant's system is at or above the 60th percentile but less than the 80th percentile of the community water systems on the Department's Master Priority List.
 - iii. 60 points if the applicant's system is at or above the 40th percentile but less than the 60th percentile of the community water systems on the Department's Master Priority List.
 - iv. 40 points if the applicant's system is at or above the 20th percentile but less than the 40th percentile of the community water systems on the Department's Master Priority List.
 - v. 20 points if the applicant's system is less than the 20th percentile of the community water systems on the Department's Master Priority List.
 - vi. 0 points if the applicant's system is not listed on the Department's Master Priority List.
 - b. Prior Year Funding (PYF) — The Authority shall award PYF points up to a maximum of 100 points with only 1 set of points awarded as follows:
 - i. 100 points if the applicant requests project technical assistance to design a project that received pre-design project technical assistance from the Authority in a previous funding cycle.
 - ii. 50 points if the applicant requests additional technical assistance to offset actual costs or justified overruns.
 - 2. Project Benefits (PB) — The Authority shall award PB points up to a maximum of 200 as follows:
 - a. For requests for pre-design project technical assistance, the Authority shall award points as follows:
 - i. 200 points if the project receives a combined score of 160 to 200 points for Current Conditions under R18-15-509(A)(1) and Local Fiscal Capacity under R18-15-509(A)(3).
 - ii. 150 points if the project receives a combined score of 120 to 159 points for Current Conditions under to

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- R18-15-509(A)(1) and Local Fiscal Capacity under R18-15-509(A)(3).
- iii. 100 points if the project receives a combined score of 80 to 119 points for Current Conditions under R18-15-509(A)(1) and Local Fiscal Capacity under R18-15-509(A)(3).
 - iv. 50 points if the project receives a combined score of 40 to 79 points for Current Conditions under R18-15-509(A)(1) and Local Fiscal Capacity under R18-15-509(A)(3).
 - v. 0 points if the project receives a combined score of fewer than 40 points for Current Conditions under R18-15-509(A)(1) and Local Fiscal Capacity under R18-15-509(A)(3).
- b. For requests for design project technical assistance, the Authority shall award points as follows:
- PB = WSI + CR, where:
- WSI = Water System Improvement
- CR = Consolidation & Regionalization
- i. Water System Improvement (WSI) — The Authority shall award WSI points up to a maximum of 150 points from the following categories:
 - (1) A maximum of 100 points if the applicant's proposed project address deficiencies identified by the Department on the Department's Master Priority List.
 - (2) 25 points if the applicant submitted a complete Capacity Development Plan to the Department.
 - (3) 25 points if the proposed project includes installation of meters.
 - ii. Consolidation & Regionalization (CR) — The Authority shall award CR points up to a maximum of 50 points as follows:
 - (1) 20 points if the applicant is consolidating the physical facilities of existing multiple facilities.
 - (2) 20 points if the applicant is extending service to existing areas currently served by another facility.
 - (3) 5 points if the applicant is consolidating the operations of existing multiple facilities.
 - (4) 5 points if the applicant is consolidating the ownership of existing multiple facilities.
3. Local Fiscal Capacity (LFC) — The Authority shall award LFC points up to a maximum of 100 points using the following formula:
- $LFC = MHI + UF + I$, where:
- LFC = Local Fiscal Capacity
- MHI = Median Household Income
- UF = User Fees
- I = Indebtedness
- a. Median Household Income (MHI) — The Authority shall divide the MHI from the area served by the applicant by the state's MHI (Service Area MHI/State MHI) to award points as follows:
 - i. 40 points if the area's MHI is less than 40% of the State's MHI.
 - ii. 30 points if the area's MHI is greater than or equal to 40% but less than 60% of the State's MHI.
 - iii. 20 points if the area's MHI is greater than or equal to 60% but less than 80% of the State's MHI.
 - iv. 10 points if the area's MHI is greater than or equal to 80% but less than 100% of the State's MHI.
 - v. 0 points if the area's MHI is greater than or equal to 100% of the State's MHI.
 - b. User Fees (UF) — The Authority shall divide the applicant's proposed residential user fees, rates, and charges by the service area's MHI (Proposed User Fees, Rates and Charges/Area MHI) to award points as follows:
 - i. 30 points if the rates are more than 1.5% of the area's MHI.
 - ii. 15 points if the rates are from 1% to 1.5% of the area's MHI.
 - iii. 0 points if the rates are less than 1% of the area's MHI.
 - c. Indebtedness (I) — The Authority shall divide existing indebtedness and proposed indebtedness by the number of users (Indebtedness/Number of Users) and divide the result by the service area's MHI to award points as follows:
 - i. 30 points if the existing and proposed indebtedness is more than 1% of the area's MHI.
 - ii. 15 points if the existing and proposed indebtedness is from .5% to 1% of the area's MHI.
 - iii. 0 points if the existing and proposed indebtedness is less than .5% of the area's MHI.
 - d. The Authority may use the most recent United States census data to determine the applicant's and the state's median household income. If the Authority or the applicant determines that this data is insufficient, the applicant shall use a reliable and impartial entity to conduct an income survey of the applicant's service area. If the applicant's service area is included in more than one income area, the Authority shall use an average of income areas to define the service area's median household income.
- B.** The Authority shall rank tied scores by placing the project with the highest Local Fiscal Capacity points under R18-15-509(A)(3) above all other tied projects.

R18-15-510. Fundable Range for Drinking Water Project Technical Assistance Grants Repealed

- A.** The Board shall adopt a Fundable Range for Drinking Water Project Technical Assistance Grants based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles in which funds are not adequate to assist any projects.
- B.** The Authority shall prepare a draft and a final Fundable Range at the same time and in the same manner as the Drinking

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Water Project Technical Assistance Priority List in accordance with R18-15-508(D) and (E).

- C.** The Authority shall rank projects within the Fundable Range based on priority values obtained from the Drinking Water Project Technical Assistance Priority List and the year the applicant requires funding. The Fundable Range addressed by the section shall be limited to systems fewer than 10,001 people.
- D.** As a guide to award project technical assistance grants or consultant contributions, the Board may require applicants to contribute to fund total project costs as follows, based on ability to contribute:
 - 1. 25% contribution towards total project costs if the project received 70 or more points for Local Fiscal Capacity under R18-15-509(A)(3).
 - 2. 50% contribution towards total project costs if the project received fewer than 70 but at least 50 points for Local Fiscal Capacity under R18-15-509(A)(3).
 - 3. 75% contribution towards total project costs if the project received fewer than 50 but at least 30 points for Local Fiscal Capacity under R18-15-509(A)(3).
 - 4. If the applicant receives fewer than 30 points for Local Fiscal Capacity pursuant to R18-15-509(A)(3), the applicant may still be eligible for a project technical assistance loan under R18-15-511.
 - 5. An applicant's contribution can include cash contributions, in kind contributions, and contributions financed by loans or debt from any source including a loan from the Authority. The Board may waive or modify the applicant's contribution for total project costs if the Board determines, at a public meeting, that the applicant is unable to fund the contribution in accordance with this subsection.
- E.** The Board shall make additions to the Fundable Range if each of the following conditions are met:
 - 1. The project is on the Drinking Water Project Technical Assistance Priority List;
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 3. The additions are made by the Board at a public meeting.
- F.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under one or more of the following circumstances:
 - 1. The project has been removed from the Drinking Water Project Technical Assistance Priority List;
 - 2. The project has received all technical assistance requested by the applicant; or
 - 3. The applicant fails to proceed with the project.

R18-15-511. Fundable Range for Drinking Water Project Technical Assistance Loans Repealed

- A.** The Board shall adopt a Fundable Range for Drinking Water Project Technical Assistance Loans based on projects ranked on the Priority List. The Board shall not adopt a new Fundable Range for funding cycles in which funds are not adequate to assist any projects.
- B.** The Authority shall prepare a draft and a final Fundable Range at the same time and in the same manner as the Drinking Water Project Technical Assistance Priority List in accordance with R18-15-508(D) and (E).
- C.** The Authority shall rank projects within the Fundable Range based on priority values obtained from the Drinking Water Project Technical Assistance Priority List and the year the applicant requires funding.
- D.** The Authority shall provide only project technical assistance loans to applicants eligible under this Section.
- E.** The Board shall make additions to the Fundable Range if each of the following conditions are met:
 - 1. The project is on the Drinking Water Project Technical Assistance Priority List;
 - 2. Funds are available to cover the cost of the project and to honor funding commitments made to other projects, and
 - 3. The additions are made by the Board at a public meeting.
- F.** After an opportunity for public comment at a public meeting, the Board shall remove a project from the Fundable Range under one or more of the following circumstances:
 - 1. The project has been removed from the Drinking Water Project Technical Assistance Priority List;
 - 2. The project has received all technical assistance requested by the applicant; or
 - 3. The applicant fails to proceed with the project.

ARTICLE 6. HARDSHIP GRANT FUND PROGRAM

R18-15-601. Types of Assistance Available Hardship Grant Fund Administration

- A.** The Authority may provide hardship grants for any of the following purposes:
 - 1. In accordance with A.R.S. § 49-1267(D)(1), financial assistance in the form of grants to political subdivisions and Indian tribes to design, plan, acquire, construct, or improve wastewater collection and treatment facilities;
 - 2. In accordance with A.R.S. § 49-1267(D)(2), technical assistance related to the operation and maintenance of wastewater systems.
- B.** The Authority shall describe projects and proposed assistance in the Clean Water Revolving Fund Intended Use Plan developed under R18-15-203 or in the Technical Assistance Intended Use Plan developed under R18-15-501.
- A.** The Authority shall establish a separate account or accounts for the Hardship Grant Fund Program from any monies received according to A.R.S. § 49-1267(A). The Authority shall only use the monies from the Hardship Grant Fund Program for:
 - 1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve

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wastewater collection and treatment facilities; and

2. Providing training and technical assistance related to operation and maintenance of wastewater treatment facilities.

- B.** The Authority shall identify any funding available for financial assistance under the Hardship Grant Fund Program in the annual Clean Water Revolving Fund Intended Use Plan described in R18-15-202 and any funding available for technical assistance in the Clean Water Technical Assistance Intended Use Plan described in R18-15-502. If the Board determines no funding is available for the Hardship Grant Fund Program, the Authority shall not evaluate any applications for financial assistance or grant applications for technical assistance for funding from the Hardship Grant Fund Program.

R18-15-602. ~~Eligibility Requirements for Hardship Grant Fund Financial Assistance~~

- A.** ~~To be eligible to receive financial assistance an applicant shall propose a project to design, plan, acquire, construct, or improve wastewater collection and treatment facilities owned by political subdivisions or Indian tribes.~~

- B.** ~~An applicant eligible under subsection (A) shall also meet all of the following requirements before receiving financial assistance:~~

- ~~1. The applicant has applied for financial assistance in accordance with R18-15-102(A), (B), and (E).~~
- ~~2. The project is on the Clean Water Revolving Fund Priority List developed under Article 2 of this Chapter or the project is on the Clean Water Project Technical Assistance Priority List developed under Article 5 of this Chapter.~~
- ~~3. The applicant is a community in a rural area.~~
- ~~4. The applicant is a community of more than a single household but no more than 3,000 persons as measured by the most recent United States decennial census.~~
- ~~5. The applicant is a community that lacks centralized wastewater treatment or collection systems or needs improvements to wastewater treatment systems.~~
- ~~6. On the date the applicant applies for assistance, the per capita annual income of the community's residents does not exceed 80% of national per capita income.~~
- ~~7. On the date the applicant applies for assistance, the community's local unemployment rate exceeds by one percentage point or more the most recently reported average yearly national unemployment rate.~~

- 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). 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.

- B.** The Authority shall make the determination of applicant's eligibility for the Hardship Grant Fund Program during the ranking of the project under R18-15-204. Of the applicants eligible to receive financial assistance from the Hardship Grant Fund Program, the Authority shall award the hardship grant monies based on an applicant's financial capability and ability to generate sufficient revenues to pay for debt service.

- C.** The Authority shall proceed according to Article 2 of this Chapter for any applicant meeting the eligibility requirements for the Hardship Grant Fund Program. In addition to proceeding under R18-15-207, the Authority shall identify any applicant that qualifies for Hardship Grant Fund Program financial assistance and shall make a recommendation to the Board regarding the amount of funding to provide the applicant from the Hardship Grant Fund Program.

R18-15-603. ~~Hardship Grant Financial Fund Technical Assistance Awards~~

- A.** ~~The Board shall award financial or technical assistance to eligible applicants for proposed projects in priority order according to the priority lists developed under Articles 2 and 5 of this Chapter. If the Authority determines that an eligible applicant will not be able to proceed with a project, the Board shall bypass that project. The Authority shall provide written notice to the applicant that the project has been bypassed. The Authority shall replace the bypassed project with the next eligible applicant and eligible project pursuant to priority lists developed under Articles 2 and 5 of this Chapter.~~

- B.** ~~The Board shall award financial or technical assistance to eligible applicants based on the Local Fiscal Capacity points assigned to an applicant under R18-15-205(A)(3) or R18-15-505(A)(4) and an applicant's ability to generate sufficient revenues to pay debt service.~~

- A.** If funding is available in the Hardship Grant Fund Program, the Authority shall identify in the Request for Grant Applications prepared according to A.R.S. § 41-2702(B) the amount of funding for technical assistance available from the Hardship Grant Fund Program.

- B.** The Authority shall make the determination of grant applicant's eligibility for the Hardship Grant Fund Program during the ranking of the project under R18-15-503. Of the grant applicants eligible to receive technical assistance from the Hardship Grant Fund Program, the Authority shall award the hardship grant monies based on the financial capability of a grant applicant.

- C.** The Authority shall proceed according to R18-15-503 for any grant applicant requesting assistance for operation and maintenance for a wastewater treatment facility. In addition to proceeding under R18-15-503(F), the Authority shall iden-

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tify any grant applicant that qualifies for Hardship Grant Fund Program technical assistance and shall make a recommendation to the Board regarding the amount of funding to provide the grant applicant from the Hardship Grant Fund Program.

ARTICLE 7. INTEREST RATE SETTING AND FORGIVABLE PRINCIPAL

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

- A. The Authority shall prescribe the rate of interest, including interest rates as low as 0% on Authority loans, bond purchase agreements, and linked deposit guarantees based on the applicant's ~~Local Fiscal Capacity~~ local fiscal capacity points assigned to an applicant under ~~R18-15-205(A)(3)~~ R18-15-204(A)(6), ~~or R18-15-305(A)(3)~~ R18-15-304(A)(6), or R18-15-404(A)(5), and an applicant's ability to generate sufficient revenues to pay debt service.
- B. The Authority may forgive principal on Authority loans, bond purchase agreements, and linked deposit guarantees made to local units of government to plan, acquire, construct, or improve drinking water facilities based on:-
1. An applicant's local fiscal capacity under R18-15-304(A)(6), and
 2. An applicant's ability to generate sufficient revenues to pay debt service.
- ~~C. In accordance with subsection (B) of this Section, the Authority may forgive principal based on the Local Fiscal Capacity points assigned to an applicant under R18-15-305(A)(3), and an applicant's ability to generate sufficient revenues to pay debt service.~~

NOTICE OF FINAL RULEMAKING

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

Editor's Note: The following Notice of Proposed Rulemaking was reviewed per Laws 2009, 3rd Special Session, Ch. 7, § 28. (See the text of § 28 at 15 A.A.R. 1942, November 20, 2009.) The Governor's Office authorized the notice to proceed through the rulemaking process on February 9, 2010.

[R10-124]

PREAMBLE

1. Sections Affected

R20-2-101
R20-2-102
R20-2-104
R20-2-601
R20-2-901
R20-2-910

Rulemaking Action

Amend
Amend
Amend
Amend
Amend
Amend

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

Authorizing statute: A.R.S. § 41-2065(A)(4)

Implementing statute: A.R.S. §§ 41-2065(E), 41-2066, 41-2067(H), and 41-2094

3. The effective date for the rules:

October 9, 2010

4. List of all previous notices appearing in the Register addressing the final rules:

Notice of Rulemaking Docket Opening: 16 A.A.R. 535, April 2, 2010

Notice of Proposed Rulemaking: 16 A.A.R. 650, April 23, 2010

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

Name: Duane Yantorno
Address: Department of Weights and Measures
4425 W. Olive Ave., Suite 134
Glendale, AZ 85302
Telephone: (602) 771-4933
Fax: (623) 939-7825
E-mail: Dyantorno@azdwm.gov

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6. An explanation of the rules, including the agency's reasons for initiating the rulemaking:

In Article 1, the Department increases metrology laboratory fees and updates materials incorporated by reference. In Article 6, the Department establishes qualifications and duties for two classifications of vapor recovery registered service representatives. In Article 9, the Department incorporates by reference additional vapor recovery tests.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not 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 Department reviewed the 2008 State Laboratory Program Workload Survey issued by the National Institute of Standards and Technology on March 30, 2009. A copy of the study is available at www.nist.gov. The Department used the survey results to assess the reasonableness of the proposed fee increase for the Department's Metrology Laboratory.

8. A showing of good cause why the rules are necessary to promote a statewide interest if the rules will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. The summary of the economic, small business, and consumer impact:

The update of incorporated materials from the National Institute of Standards and Technology will have minimal economic impact. The materials are available without charge online so those who must ensure that commercial devices comply with the incorporated standards will incur little expense to obtain a copy of the standards. The updated materials contain few changes that will have economic impact.

The newly incorporated material from the California Air Resources Board will have minimal economic impact. The materials are available without charge online. However, registered service agencies and their representatives will incur the expense of learning to perform the new vapor recovery test procedures.

The increase in fees charged by the Department's Metrology Laboratory, which is one of only 18 laboratories nationally to be accredited by the National Voluntary Laboratory Accreditation Program, will have economic impact on registered service agencies and private industries that have standards certified by the Metrology Laboratory. The Department has not increased these fees since 1983. The more than 6,800 calibrations provided annually by the Metrology Laboratory are a critical part of the U.S. measurement infrastructure. Data from the National Institute of Standards and Technology show that the fees charge in 2008 by the Department's Metrology Laboratory are among the lowest in the nation. With this increase, fees charged by the Metrology Laboratory will still be below the 2008 national average for the 43 states that provided data to the NIST. Paying for the calibrations is a cost of doing business that will be passed to consumers by registered service agencies.

At the request of industry and under the authority provided by A.R.S. § 41-2065(E), the Department is establishing two categories of vapor recovery registered service representatives who perform tests or repairs on vapor recovery systems or vapor recovery components. A vapor recovery registered service representative No. 2 is an individual allowed to perform only specific tests on specific systems or pieces of equipment. A vapor recovery registered service representative No. 1 is an individual allowed to perform any vapor recovery test, including the required annual vapor recovery test. It is believed this distinction will expand the pool of individuals qualified to perform specific tests on specific equipment allowing the equipment to be placed back into service more quickly. This will have a positive economic benefit for those qualified to act as a vapor recovery registered service representative No. 2 and for those who have equipment placed back in service quickly.

10. A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):

Only minor, non-substantive changes were made between the proposed and final rules. Some of these changes result from comments by G.R.R.C. staff.

11. A summary of the comments made regarding the rules and the agency response to them:

A question was received from Jim Mikula of APS. He asked whether the requirements to become a vapor recovery registered service representative No.1 or No. 2 are new and if so, whether competence in the CARB testing procedures is the basis for licensure as a vapor recovery registered service representative No.1 or No. 2. It is not new that a registered service representative be competent in the testing procedures used. It is new that a technician who repairs certain equipment can now become licensed as a vapor recovery registered service representative No. 2 and able to test the equipment repaired rather than calling another person to do the testing. This makes the work of the vapor recovery registered service representative No. 2 more efficient and allows equipment to be placed back into service more quickly. Regardless of who does the testing, all vapor recovery testing is done using specified CARB procedures.

No one attended the oral proceeding on June 10, 2010.

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

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Under A.R.S. § 41-2065(E), the director of the Department is required to consult with the director of the Department of Environmental Quality regarding the rules. This consultation has occurred. Under the state's implementation plan, the changes to Article 9 will have to be submitted to the EPA for approval.

13. Incorporations by reference and their location in the rule:

Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices, 2010, United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov incorporated at R20-2-101

Uniform Laws and Regulations in the Areas of Legal Metrology and Engine Fuel Quality, 2009, United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov incorporated at R20-2-101

Checking the Net Contents of Packaged Goods, 2005, United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, Government Printing Office, P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov incorporated at R20-2-101

California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, CA 95812-2815 incorporated at R20-2-901

California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, CA 95812-2815 incorporated at R20-2-901

California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, CA 95812-2815 incorporated at R20-2-901

14. Were these rules previously made as emergency rules?

No

15. The full text of the rules follows:

TITLE 20. COMMERCE, FINANCIAL INSTITUTIONS, AND INSURANCE

CHAPTER 2. DEPARTMENT OF WEIGHTS AND MEASURES

ARTICLE 1. ADMINISTRATION AND PROCEDURES

Section

- R20-2-101. Definitions
- R20-2-102. Metrology Laboratory Testing and Calibration Fees
- R20-2-104. Administrative Enforcement Action

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

Section

- R20-2-601. Qualifications; License and Renewal Application Process

ARTICLE 9. GASOLINE VAPOR CONTROL

Section

- R20-2-901. Material Incorporated by Reference
- R20-2-910. Annual Inspection and Testing

ARTICLE 1. ADMINISTRATION AND PROCEDURES

R20-2-101. Definitions

The definitions in A.R.S. §§ 41-2051, 41-2065, 41-2085, 41-2121, and 41-2131 and the following definitions apply to this Chapter:

1. No change
2. No change
 - a. No change
 - b. No change
 - c. No change

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- d. No change
- e. No change
- f. No change
- g. No change
- h. No change
- i. No change
- 3. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
- 8. No change
- 9. No change
 - a. No change
 - b. No change
 - c. No change
- 10. No change
- 11. No change
- 12. "Handbook 44" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 44, *Specifications, Tolerances, and Other Technical Requirements for Weighing and Measuring Devices*, Government Printing Office, ~~Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2003 2010 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- 13. "Handbook 112" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 112, *Examination Procedure Outlines for Commercial Weighing and Measuring Devices*, Government Printing Office, ~~Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2002 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- 14. "Handbook 130" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 130, *Uniform Laws and Regulations*, Government Printing Office, ~~Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (2003 2009 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions or amendments.
- 15. "Handbook 133" means the United States Department of Commerce, Technology Administration, National Institute of Standards and Technology (NIST) Handbook 133, *Checking The Net Contents of Packaged Goods*, Government Printing Office, ~~Superintendent of Documents, Mail Stop SSOP, Washington, D.C. 20402-0001~~ P.O. Box 979050, St. Louis, MO 63197-9000 or bookstore.gpo.gov (January 2003 2005 edition), incorporated by reference and on file with the Department. This incorporation by reference contains no future editions and amendments.
- 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. ~~"Placed in service"~~ Placed in service means the certification by a registered service agency or representative that a commercial device may be used, unless the Department orders otherwise.
- 26. ~~"Placed in Service Report"~~ Placed-in-service report means the form that a registered service representative completes and submits to the Department after placing a commercial device in service.
- 27. No change
- 28. No change
- 29. No change
- 30. No change
- 31. No change
- 32. "Third-party registered service agency" means a registered service agency that performs work under contract for any business or company.

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~~32-33.~~ No change

~~33-34.~~ No change

~~35.~~ “Vapor recovery registered service representative No. 1” means an individual to whom the Department has issued a license authorizing the individual to conduct all vapor-recovery tests required under A.R.S. Title 41, Chapter 15 or this Chapter including annual vapor-recovery tests.

~~36.~~ “Vapor recovery registered service representative No. 2” means an individual to whom the Department has issued a license authorizing the individual to conduct the specific vapor-recovery tests necessary to determine whether equipment on which the individual performed maintenance or repairs is operating properly.

~~34-37.~~ No change

~~35-38.~~ No change

R20-2-102. Metrology Laboratory Testing and Calibration Fees

A. ~~The~~ For all services of the Department’s Metrology Laboratory ~~charges,~~ the Department shall charge the following fees for services:

1. ~~\$24.00 for the first hour, or fraction of an hour, and~~

2. ~~\$40.00 an hour, or fraction of an hour, after the first hour~~ \$110 per hour with a minimum charge of \$50.

B. In addition to the ~~charges~~ fee in subsection (A), the Department shall charge for travel and per diem at the rates established by ~~under~~ A.R.S. §§ 38-623(D) and 38-624(C) for tests or calibrations conducted outside the Metrology Laboratory.

R20-2-104. Administrative Enforcement Action

A. No change

B. No change

C. No change

D. No change

E. No change

F. No change

1. No change

2. No change

3. No change

a. No change

b. No change

4. No change

5. No change

6. No change

7. No change

8. No change

9. No change

10. No change

a. No change

i. No change

ii. No change

b. No change

i. No change

ii. No change

G. No change

1. No change

a. No change

b. No change

c. No change

2. No change

a. No change

b. No change

c. No change

3. No change

4. No change

5. No change

6. No change

a. No change

b. No change

c. No change

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- H. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 2. No change
- I. No change
 - 1. No change
 - 2. No change
 - a. No change
 - b. No change
 - 3. No change
 - 4. No change
 - 5. No change
- J. No change
 - 1. No change
 - 2. No change
 - 3. No change
 - 4. No change
 - 5. No change
- K. 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
 - 4. No change
- L. No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - 2. No change
 - 3. The Department shall issue an administrative order if a person fails to ~~schedule~~ ensure that an initial test date within 90 days of opening a vapor recovery site ~~passes an initial test within 90 days of being opened or passes an annual test date within the person's designated test month for that year.~~ The Department shall issue a stop-sale, stop-use tag if the person does not comply with the administrative order.
 - 4. No change
 - 5. No change
 - 6. No change
 - 7. No change
- M. No change
 - 1. No change
 - a. No change
 - b. No change
 - 2. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - 3. No change
 - a. No change
 - b. No change

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- c. No change
- 4. No change
- 5. No change
- 6. No change
- 7. No change
 - a. No change
 - b. No change
 - c. No change
 - d. No change
 - e. No change
- 8. No change
- 9. No change
 - a. Impose a ~~\$300.00~~ \$300 civil penalty on the registered service agency for the first violation, and
 - b. No change
- 10. No change
 - a. No change
 - b. No change
 - c. No change
- 11. No change
 - a. No change
 - b. No change
 - c. No change

ARTICLE 6. REGISTERED SERVICE AGENCIES AND REPRESENTATIVES

R20-2-601. Qualifications; License and Renewal Application Process

- A.** No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - i. No change
 - ii. No change
 - iii. No change
 - d. 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
- B.** Third-party registered service agency. In addition to complying with the requirements in subsection (A), a third-party registered service agency shall provide the Department with evidence that the third-party registered service agency:
 - 1. Holds a valid license issued by the Arizona Registrar of Contractors.
 - 2. Complies with workers' compensation insurance laws, and
 - 3. Maintains liability insurance sufficient to cover the value of work to be performed.
- ~~**B.C.**~~ No change
 - 1. No change
 - a. No change
 - b. No change
 - c. No change
 - d. The applicant has passed a the competency examination specified in subsection (D). ~~An applicant shall bring a copy of Handbook 44 and Handbook 112 to the examination site. An applicant for a vapor recovery registered service representative license shall complete the Department's training class before taking the competency examination.~~
 - 2. No change

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- a. No change
- b. No change
- c. An indication of whether the applicant is applying to be a registered service representative, vapor recovery service representative No. 1, or vapor recovery service representative No. 2:
- ~~e-d.~~ No change
- ~~d-e.~~ No change
- ~~e-f.~~ No change
- ~~f-g.~~ No change
- 3. An applicant for a vapor recovery registered service representative No. 1 license shall maintain and make available to the Department upon request evidence of being:
 - a. Certified by the manufacturer to test or repair all vapor recovery systems and components, or
 - b. Determined qualified by the Department to test or repair all vapor recovery systems and components.
- D.** Competency examination. Before being issued a registered service representative license, an applicant shall pass a Department-administered competency examination.
 - 1. An applicant for a vapor recovery registered service representative license shall complete the Department's training class before taking the competency examination.
 - 2. An applicant shall bring a copy of Handbook 44 and Handbook 112 to the examination site.
 - 3. An applicant shall complete the competency examination within the time specified by the Department.
 - 4. The Department shall not allow an applicant to take the competency examination more than two times in six months.
- E.** As required under A.R.S. § 41-2094(G), the Department shall specify on a registered service representative license the devices that the registered service representative may service, repair, or install or the vapor recovery systems or components that the vapor recovery registered service representative may test or repair. A registered service representative shall perform only the services approved by the Department for the registered service representative.
- ~~C.F.~~ Renewal of a registered service representative license, an applicant shall. Under A.R.S. § 41-2094(D), a registered service representative license is valid for 12 months and expires unless renewed. To renew a registered service representative license, the registered service agency employing the registered service representative shall comply with R20-2-603(E). Before complying with R20-2-603(E), the registered service agency shall ensure that:
 - 1. ~~Complete~~ A vapor recovery registered service representative No. 1 or 2 completes the Department's training class, and
 - 2. ~~Take~~ A vapor recovery registered service representative takes and pass a passes the Department's written vapor recovery competency examination, administered by the Department, as follows:
 - a. A vapor recovery service representative No. 1 shall pass the vapor recovery competency examination annually, and
 - b. A vapor recovery service representative No. 2 shall pass the vapor recovery competency examination biennially.
- ~~D.~~ An applicant may not take a registered service representative examination more than two times in six months.
- ~~E.~~ An applicant shall complete an examination within the time specified.
- ~~F.G.~~ The Department does not charge a fee to process a change in business name or address.

ARTICLE 9. GASOLINE VAPOR CONTROL

R20-2-901. Material Incorporated by Reference

The following documents are incorporated by reference and on file with the Department. The documents incorporated by reference contain no later amendments or editions:

- 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. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1B, Static Torque of Rotatable Phase 1 Adaptors, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - g. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1C, Leak Rate of Drop Tube/Drain Valve Assembly, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.
 - h. California Environmental Protection Agency, Air Resources Board Vapor Recovery Test Procedure TP-201.1E, Leak Rate and Cracking Pressure of Pressure/Vacuum Vent Valves, October 8, 2003 edition, California Air Resources Board, P.O. Box 2815, 2020 L. Street, Sacramento, California 95812-2815.

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R20-2-910. Annual Inspection and Testing

- A.** A person shall ensure that an annual inspection, ~~as required by A.R.S. § 41-2065(A)(15)~~, is conducted by a registered service representative on or before the annual inspection date. The annual inspection date is the last day of the month in which the last scheduled annual inspection was performed. A registered service agency shall notify the Department in writing at least 10 business days before an annual inspection of the time, date, and location of the inspection. The Department shall notify the registered service agency within five business days, by facsimile or electronic mail, whether it approves the annual inspection date and time. The registered service agency shall not perform the annual inspection unless the Department approves the inspection date and time.
- B.** No change
- C.** No change
- D.** No change
- E.** No change
- F.** No change
- G.** No change