

Now is the Time to Amend WIFIA

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Congress certainly looks like an exciting place this fall, with plenty of political fireworks and intense drama over spending.

But there's no doubt legislators and their constituents will also want to see progress on some basic things that are clearly beneficial, aren't politically charged and don't cost very much. Improving the WIFIA Loan Program with specific statutory amendments fits, as it were, the bill.

There are three areas in which WIFIA's lending capability can be improved with short, precise and essentially costless amendments to the Program's current law. The improvements do not represent any major change in WIFIA's purpose, operations or policy objectives. Rather, the common objective is to expand or restore program capabilities to achieve current objectives using funding that's already in hand. WIFIA and its new USACE section, CWIFP, between them now have funding for \$14 billion in new loan volume – Congress should help them put it to work.

1. 55-Year Loan Term for Long-Lived Assets

[Extending WIFIA's post-completion maximum loan term from 35 to 55 years](#) for qualifying long-lived assets will improve project economics, intergenerational equity and debt service management. This is not controversial – the TIFIA loan program's maximum loan term was extended to 75 years in the IIJA.

A 55-year loan term is currently proposed in [H.R.5664](#), a recently re-introduced bill containing several WIFIA amendments. It's hard to see why anyone supportive of US water infrastructure renewal would oppose it, but the same amendment went nowhere in recent years. Perhaps the municipal bond industry is concerned that 55-year WIFIA loans would compete with 30-year bonds for municipal water projects? If so, a narrower proposal might allay their concern. For example, a 55-year term could be [limited only to loans for dam safety projects](#), a very long-lived infrastructure sub-sector for which CWIFP currently has \$7.5 billion of loan volume available.

2. Interest Rate Reset for Falling Rates

WIFIA's interest rate management features, most importantly the interest rate lock and the reset option, are a primary source of program benefits. [Such rate features are critical for infrastructure borrowers in current economic and financial conditions.](#) The rate lock protects the borrower from rising rates. When rates are falling, WIFIA allows a one-time downward adjustment of the interest rate on a previously executed but undrawn loan commitment. [This reset doesn't cost taxpayers anything](#) because the loan is undrawn, and the new rate is simply WIFIA's then-current one. [The program completed seven resets during 2020](#), but due to steadily rising rates since then, more have not been needed. However, that's likely to change over the next few years, perhaps dramatically, as current long-term rates have much more room to go down than up.

WIFIA's rate reset is an established feature, but not a statutory provision like the rate lock. [Amending WIFIA law to explicitly include the reset](#) is straightforward and would simply reflect what the program has already successfully done. For WIFIA's borrowers, a statutory reset will add certainty to a loan feature that may be especially important in planning for an uncertain future.

3. Restoring WIFIA FCRA Eligibility for Non-Federal Cost Shares in Federally Involved Projects

I've been [analyzing the FCRA budgetary issue for loans to non-federal cost shares in federally involved projects](#) for nearly a year now, and I've come to two firm conclusions. The first is that FCRA law and founding principles are sufficiently clear that criteria for FCRA treatment of non-federal cost shares can be short, simple and straightforward. The second is that the currently applicable criteria, [the WIFIA FCRA Criteria published in 2020 in the Federal Register](#), aren't just difficult to understand – *they're completely wrong*. The current Criteria do not comply with the Congressional Directive that established them, are not based on FCRA law or the relevant principles in the 1967 Budget Report, and unjustifiably restrict WIFIA statutory eligibility for specifically chosen targets. They've got to go.

This is widely recognized among affected stakeholders. H.R.5664 and [H.R.2671](#) currently propose the same simple and indisputably valid amendment clarifying WIFIA's FCRA treatment. This would be the ideal solution, but CBO punitively scored very similar language twice when proposed in separate Senate bills over the past few years – I assume they'll do the same if they see it again. [A new approach](#) in which the amendment language more precisely dovetails into WIFIA's existing statutes might improve the odds of enactment. Or, since a Congressional Directive established the current Criteria in the first place,

presumably a [new directive could require appropriate modification](#). Whatever works. The path can be an exercise in realpolitik if it gets to the right place: FCRA criteria consistent with FCRA law and principles, and restored WIFIA eligibility for non-federal cost shares in line with original Congressional intent.