

ADOPTED REGULATION OF THE STATE
ENVIRONMENTAL COMMISSION

LCB File No. R128-04

Effective February 14, 2005

EXPLANATION – Matter in *italics* is new; matter in brackets ~~[omitted material]~~ is material to be omitted.

AUTHORITY: §§1-54, NRS 445A.270.

A REGULATION relating to public water systems; revising provisions to reflect the transfer of the authority to administer certain accounts from the Health Division of the Department of Human Resources to the Division of Environmental Protection of the State Department of Conservation and Natural Resources; revising the procedures governing the administration of the accounts; revising the procedures for applying for assistance from the accounts; and providing other matters properly relating thereto.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. *“Commission” has the meaning ascribed to it in NRS 445A.210.*

Sec. 3. *“State median household income” means the median household income for this State.*

Sec. 4. 1. *An applicant shall, as necessary, provide for a public participation process to provide interested or affected persons a reasonable opportunity to submit to the applicant, orally or in writing, data, views or arguments upon a draft environmental assessment for a proposed water project.*

2. The applicant shall provide notice of the time and place set for the workshop not less than 15 days before the workshop. The applicant may provide such notice by:

(a) Publishing a single notice in a newspaper of general circulation in the area affected by the proposed water project;

(b) Mailing the notice to each interested person who requests to be on a mailing list maintained by the Division;

(c) Mailing the notice to the appropriate federal and state agencies and municipalities; or

(d) Any other means reasonably calculated to provide such notice to the general public and any person who may be affected by the proposed water project.

3. The notice must include:

(a) A description and the location of the proposed water project;

(b) The time that the applicant will allow for public comments; and

(c) The address where the written comments may be sent.

4. The minimum period for public comment concerning the draft environmental assessment for a water project is 30 days after the applicant has provided the notice in the manner set forth in subsection 2.

5. The applicant shall clearly indicate the date by which any written comments concerning the subject of the workshop must be received by the applicant to receive consideration.

Sec. 5. NAC 445A.6751 is hereby amended to read as follows:

445A.6751 As used in NAC 445A.6751 to 445A.67644, inclusive, *and sections 2, 3 and 4 of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.67511 to 445A.67557, inclusive, *and sections 2 and 3 of this regulation* have the meanings ascribed to them in those sections.

Sec. 6. NAC 445A.67517 is hereby amended to read as follows:

445A.67517 “Board for Financing Water Projects” ~~has the meaning ascribed to it in NRS 349.936.~~ *means the Board created pursuant to NRS 349.957.*

Sec. 7. NAC 445A.6752 is hereby amended to read as follows:

445A.6752 “Categorical exclusion” means an exemption from being required to comply with the provisions of NAC 445A.67587 to 445A.67612, inclusive, that is granted to an applicant for a proposed water project:

1. Which will not individually or cumulatively have a significant effect on the human environment; and
2. For which no environmental assessment or environmental impact statement is required pursuant to NAC ~~445A.67588 and NAC~~ *445A.67587 and* 445A.67594 to 445A.67612, inclusive.

Sec. 8. NAC 445A.67528 is hereby amended to read as follows:

445A.67528 “Environmental assessment” means a document *prepared by an applicant* that:

1. ~~The Division prepares or has prepared after it has reviewed and considered an environmental information document submitted by an applicant;~~
~~—2.]~~ Provides the basis for the Division to:
 - (a) Issue a finding of no significant impact; or
 - (b) Require the applicant to prepare and submit an environmental impact statement; ~~and~~
- ~~—3.]~~ **2.** Provides sufficient evidence and analysis to justify the action the Division takes pursuant to subsection ~~[2.]~~ *1; and*
- 3.** *If the Division requires the applicant to prepare and submit an environmental impact statement, facilitates the preparation of the environmental impact statement by the applicant.*

Sec. 9. NAC 445A.67532 is hereby amended to read as follows:

445A.67532 “Finding of no significant impact” means a determination by the Division, after the review of an ~~environmental information document and an~~ environmental assessment, that:

1. A water project will not have a significant effect on the human environment; and
2. The Division will not require the applicant to submit an environmental impact statement.

Sec. 10. NAC 445A.67536 is hereby amended to read as follows:

445A.67536 “Median household income” means the most recent ~~estimated average~~ *median* household income ~~level as~~ :

1. *As* determined from data from the United States Census Bureau ~~or as~~ ;
2. *As* documented by an applicant for the service area of the public water system ~~is~~ ; *or*
3. *As determined by a method set forth in the intended use plan developed pursuant to NAC 445A.67574, 445A.67575 and 445A.67576.*

Sec. 11. NAC 445A.67559 is hereby amended to read as follows:

445A.67559 1. An applicant or a recipient who has reason to believe that an action taken by an employee of the Division pursuant to NAC 445A.6751 to 445A.67644, inclusive, *and sections 2, 3 and 4 of this regulation* is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request an informal discussion with the employee responsible for the action and the immediate supervisor of the employee. The informal discussion must be scheduled for a date, place and time mutually agreed upon by the applicant or recipient and the ~~Bureau,~~ *Division*, except that the informal discussion must be held no later than 30 days after the date on which the ~~Bureau~~ *Division* received the request.

2. If the informal discussion does not resolve the problem, the applicant or the recipient may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~Bureau~~ *Division* for an informal conference. The informal conference

must be scheduled for a date, place and time mutually agreed upon by the applicant or recipient and the ~~[Bureau,]~~ *Division*, except that the informal conference must be held no later than 60 days after the date on which the ~~[Bureau]~~ *Division* received the written request.

3. *If the informal conference does not resolve the problem, the applicant or the recipient may, within 10 business days after the date scheduled for the informal conference, submit a written request to the Administrator for a determination. The Administrator shall issue a determination no later than 30 days after the date on which the Administrator received the written request for a determination.*

4. *If the determination of the Administrator does not resolve the problem, the applicant or the recipient may, within 10 business days after the date the Administrator issues the determination, submit a written request to the Director for a review of the determination of the Administrator. The Director shall issue a determination not later than 30 days after the date on which the Director received the written request for a review.* An applicant or recipient may not appeal a determination of the ~~[Bureau resulting from the informal conference,]~~ *Director*. Such a determination is the final remedy available to the aggrieved applicant or recipient.

~~[4.]~~ 5. As used in this section, ~~["Bureau"]~~ *"Director"* means the ~~[Bureau of Health Protection Services of the Division, or its successor,]~~ *Director of the State Department of Conservation and Natural Resources*.

Sec. 12. NAC 445A.6756 is hereby amended to read as follows:

445A.6756 1. To the extent that any of the provisions of NAC 445A.6751 to 445A.67644, inclusive, *and sections 2, 3 and 4 of this regulation* conflict with any of the provisions of NAC 445A.450 to 445A.6731, inclusive, the provisions of NAC 445A.450 to 445A.6731, inclusive, prevail.

2. If any of the provisions of NAC 445A.6751 to 445A.67644, inclusive, *and sections 2, 3 and 4 of this regulation* or any application thereof to any person, thing or circumstance is held invalid, it is intended that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.

Sec. 13. NAC 445A.67561 is hereby amended to read as follows:

445A.67561 1. The Division shall provide an applicant with a short-term or long-term loan from the Account for the Revolving Fund for a water project pursuant to the criteria set forth in this chapter ~~§~~ *and chapter 445A of NRS.*

2. The Division shall determine the eligibility of a water project to receive a loan from the Account for the Revolving Fund before the Division establishes the priority list pursuant to NAC 445A.67567 to 445A.67571, inclusive.

3. Any change made by an applicant to the design of his proposed water project which the applicant makes after the Division has determined that the water project is eligible for a loan, but before the Board for Financing Water Projects has committed to a loan contract, must be reported by the applicant to the Division not later than 15 days after the applicant changes the design. The Division may decide that a water project is no longer eligible for a loan based upon the design changes.

4. Water projects that are eligible for a loan from the Account for the Revolving Fund are limited to systems which are not owned by the Federal Government that are:

- (a) Publicly or privately owned community water systems; or
- (b) Nonprofit, noncommunity water systems.

5. Water projects that are eligible for a loan from the Account for the Revolving Fund include, without limitation, water projects which:

- (a) Facilitate compliance with the health protection objectives of 42 U.S.C. § 300j-12(a)(2);
- (b) Facilitate compliance with NAC 445A.453 and 445A.455;
- (c) Replace aging infrastructure, if such infrastructure is needed to maintain compliance with or to further the public health protection goals of ~~the~~ :

(1) The Safe Drinking Water Act;

(2) The provisions of NAC 445A.450 to 445A.540, inclusive; or

(3) The provisions of NAC 445A.65505 to 445A.6731, inclusive;

- (d) Consolidate water supplies; or
- (e) Facilitate the purchase of a portion of the capacity of another system to improve the cost efficiency of a public water system.

6. An applicant may be eligible to receive a loan from the Account for the Revolving Fund if the water project involves:

(a) The replacement, rehabilitation or enhancement of an existing ~~distribution system,~~ *system for the collection, pumping, treatment, storage or distribution of water,* or portions thereof, which is deemed necessary by the Division for the integrity and performance of the public water system to satisfy the requirements of NAC 445A.450 to 445A.6731, inclusive; or

(b) The creation of a new distribution system designed primarily to serve residents within an existing water system who are using domestic wells which have public health or water quality problems. Such a distribution system must provide sufficient existing or planned capacity for the development, treatment and storage of the new water of the system. The applicant shall provide assurances acceptable to the Division that the existing population in the service area of the public water system currently obtaining its water from domestic wells will connect to the new distribution system within a reasonable time after completion of the water project.

7. The Division shall decide on a case-by-case basis the costs for which an applicant may receive a loan. The costs of a water project for which an applicant may receive a loan from the Account for the Revolving Fund include, without limitation, costs for:

- (a) ~~Inspection;~~ *Planning and design;*
- (b) Construction management ~~;~~, *including, without limitation, inspection;*
- (c) Water project facilities;
- (d) Land and rights-of-way or easements that are necessary to complete the water project;
- (e) The preparation of any environmental documents that the Division or any other state or federal agency requires; and
- (f) Legal and financial services.

8. The Division may extend the term of a long-term loan to 30 years under special conditions for a disadvantaged community.

9. As used in this section:

(a) “Disadvantaged community” means an area served by a public water system in which the ~~average income per~~ *median* household *income* is less than 80 percent of the ~~average~~ *state* median household income . ~~of the county.~~

(b) “Domestic use” has the meaning ascribed to it in NRS 534.013.

(c) “Domestic well” means a well that supplies water for domestic use.

Sec. 14. NAC 445A.67563 is hereby amended to read as follows:

445A.67563 The Division shall not provide financial assistance from the Account for the Revolving Fund for the following costs associated with a water project:

- 1. The construction or rehabilitation of a dam;

2. The purchase of water rights, unless the water rights are owned by a public water system that is being purchased in an effort to consolidate as part of a program to develop the capability of a water system;

3. The construction or rehabilitation of a reservoir other than:

(a) A finished water reservoir; or

(b) A reservoir that is part of the treatment process and is located on the property where the treatment facility is located;

4. Laboratory fees for *routine* monitoring *of* water quality;

5. Expenses for operations and maintenance;

6. A project needed primarily for fire protection;

7. A water project for a public water system that lacks adequate capability, unless the financial assistance will ensure that the system acquires adequate capability;

8. A water project for a system that is in significant noncompliance with NAC 445A.453, unless the financial assistance will ensure full compliance;

9. A project that is primarily intended to serve future growth; ~~for~~

10. Refinancing of a private system ~~for~~; *or*

11. A project that has received assistance pursuant to the provisions of 42 U.S.C. § 300j-12(i).

Sec. 15. NAC 445A.67565 is hereby amended to read as follows:

445A.67565 1. Pursuant to the requirements of 42 U.S.C. §§ 300j-12(g)(2) and ~~330j-12(k),~~ *300j-12(k)*, the Division shall, at least annually, draft a proposal which sets forth the amount of money that the Division will allot from the EPA allotment of available Safe Drinking Water Act funds for the various activities identified in the Account for Set-Aside Programs.

2. The Division shall provide for a public participation process ~~[pursuant to NAC 445A.67558]~~ to:
- (a) Review a draft of the intended use plan for the Account for Set-Aside Programs; and
 - (b) Obtain and review comments and proposals concerning the use of funds allocated to the Account for Set-Aside Programs.
3. The Division shall:
- (a) Make its decisions concerning the use of money in the Account for Set-Aside Programs, taking into consideration the comments and recommendations made during the public participation review process set forth in subsection 2; and
 - (b) Prepare an intended use plan as required pursuant to NAC 445A.67574, 445A.67575 and 445A.67576.
4. The Division shall submit to the EPA an application for the capitalization grant award to fund the Account for Set-Aside Programs either by itself or together with the application for the capitalization grant award to fund the Account for the Revolving Fund.
5. The Division shall develop and submit to the EPA a detailed work plan for each set-aside program if the EPA requires such a plan.

Sec. 16. NAC 445A.67566 is hereby amended to read as follows:

445A.67566 1. At least annually, the Division shall solicit from public water systems:

- (a) Proposals in the form of preapplications for water projects; and
- (b) ~~[Other requests for financial assistance from the Account for the Revolving Fund.]~~

Written requests, from each applicant whose water project is currently on a priority list, to be included on the next priority list. If an applicant has prepared an updated estimate of the cost

for the water project, the applicant shall submit the updated estimate of the cost for the water project with the written request to be included on the next priority list.

2. If an applicant whose water project is currently on a priority list fails to submit a written request to be included on the next priority list pursuant to the provisions of subsection 1, the water project will not be included on the next priority list.

3. After receiving proposals for water projects and ~~other requests for financial assistance~~ *written requests to remain on the priority list* pursuant to subsection 1, the Division shall:

(a) Establish eligibility of each water project and applicant to receive financial assistance;

(b) Determine the rank of each water project and request to receive financial assistance on the priority list in accordance with the provisions of NAC 445A.67567 to 445A.67571, inclusive;

and

(c) Submit the priority list to the Board for Financing Water Projects.

~~3.3~~ 4. If a proposed water project includes multiple phases, the applicant shall file a separate preapplication for each phase.

~~4.4~~ 5. The preapplication must include, without limitation:

(a) The name, address and telephone number for the applicant or a representative of the applicant;

(b) A description of the proposed water project that indicates the project shall address specific public health concerns or problems;

(c) A map showing the location of the service area for the public water system and the water project;

(d) ~~An~~ *If an* estimate *has been* prepared by a professional engineer of the total cost of the water *project, a copy of the estimate of the total cost of the water* project;

- (e) The estimated schedule for completion of the water project;
- (f) Evidence of readiness of the applicant to proceed;
- (g) The number of service connections currently being served by the public water system of the applicant;
- (h) An estimate of the size of the population that is currently being served by the public water system of the applicant;
- (i) Any other anticipated sources of funding for the water project from a state or federal agency or other entity;
- (j) The median household income for the community or area that will be served or for the county in which the water project is located, including, without limitation, the source of that information;
- (k) The anticipated impact of the costs of the water project to the rates or user charges for existing customers;
- (l) The anticipated source of revenue to pay the principal and interest on the loan, including, without limitation, a description of any authorization that may be required to use that revenue for such a purpose; and
- (m) Any additional information necessary to establish the priority rank for the water project.

~~{5.—An applicant must submit his preapplication no later than 60 days after the date the Division solicits proposals for water projects.~~

~~—6.—Except as otherwise provided in this subsection, the Division shall consider unsolicited proposals within the same 60-day period that the Division considers solicited proposals. The Division may consider a request for emergency assistance submitted pursuant to NAC 445A.67572 at any time.~~

~~—7.]~~ 6. The owner or an authorized representative of the owner or governing or managing body of a public water system shall sign the preapplication.

~~[8.]~~ 7. The Division shall maintain all requests and proposals that an applicant submits pursuant to this section at the main office. The Division shall make the files available to the public.

Sec. 17. NAC 445A.67567 is hereby amended to read as follows:

445A.67567 1. At least annually, the Division shall develop a statewide priority list of water projects from the solicitation process described in NAC 445A.67566. The Division shall prioritize the list to achieve water quality and public health goals consistent with the requirements of the Safe Drinking Water Act.

2. ~~[The Division shall integrate water projects that are on an existing priority list with new projects which are identified pursuant to subsequent solicitations.]~~

~~—3.]~~ Only those projects that are included on the priority list will be considered for possible funding. Placement on the list does not guarantee that a project will receive funding.

3. If the Division receives a preapplication or a written request to remain on the priority list pursuant to the provisions of subsection 1 of NAC 445A.67566 after the annual statewide priority list of water projects has been developed, the Division may, after holding a public participation workshop pursuant to NAC 445A.67558 to allow for a period of public review and with the approval of the Board for Financing Water Projects, revise the priority list to include the water project.

4. The Division may at any time after receiving approval from the Board for Financing Water Projects revise the ranking of a water project on a priority list if ~~[~~:

~~—(a) The~~ *the* Division receives information concerning a water project that was not available at the time the list was developed . ~~f~~;

~~—(b) An applicant proposes a water project to correct an emergency situation pursuant to NAC 445A.67572 ; or~~

~~—(c) It becomes necessary for the Division to bypass a water project pursuant to NAC 445A.67573.]~~

Sec. 18. NAC 445A.67568 is hereby amended to read as follows:

445A.67568 1. When establishing the priority list, the Division shall consider:

- (a) The needs of the public water system;
- (b) The types of corrective actions that are necessary to comply with state law or regulations;
- (c) Any relevant court orders concerning the public water system;
- (d) The total amount of money available in the Account for the Revolving Fund; and
- (e) Any other factors necessary to carry out the provisions of NAC 445A.67569, 445A.6757

and 445A.67571.

2. The priority list must include, without limitation:

- (a) The name of each public water system that the Division determines is eligible for financial assistance;
- (b) The priority assigned to each proposed water project;
- (c) A description of each water project;
- (d) An estimate of the eligible costs of each proposed water project based on the best information available at the time the ~~intended use plan~~ *priority list* is developed; and
- (e) The existing population of the service area of each public water system at the time of application.

Sec. 19. NAC 445A.67569 is hereby amended to read as follows:

445A.67569 1. The Division shall rank water projects using the following criteria:

(a) The Division shall determine whether each water system qualifies as a public water system pursuant to 42 U.S.C. § 300j-12 to satisfy the requirements set forth therein to receive loan assistance.

(b) The Division shall place each water project into one of the following four classes:

(1) A Class I water project is intended to address problems, including, without limitation, demonstrated illness attributable to the public water system, significant noncompliance, a court-ordered compliance or acute health concerns related to meeting the water quality requirements of NAC 445A.453. The Division shall prioritize Class I water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each receives for ~~[demonstrated or documented noncompliance with:]~~

~~(I) The] :~~

(I) Demonstrated illness attributable to the public water system, significant noncompliance, a court-ordered compliance or acute health concerns related to meeting the water quality requirements of NAC 445A.453, 5 points;

(II) Demonstrated or documented noncompliance with the rules governing the maximum contaminant levels of microbiological contaminants found in 40 C.F.R. § 141.63, 4 points;

~~[(II) The]~~

(III) Being subject to an order to boil water issued under the authority of the State Health Officer, 4 points;

(IV) Demonstrated or documented noncompliance with the rules governing the filtration and disinfection of surface water found in 40 C.F.R. §§ 141.70 to 141.75, inclusive, 3 points; ~~and~~

~~———— (III) The]~~

(V) Demonstrated or documented noncompliance with the rule governing the maximum contaminant levels of nitrate found in 40 C.F.R. § 141.62(b)(7)-(b)(9), 2 points ~~H~~; *and*

(VI) Any other factor as provided in the intended use plan established for the year in which the priority list is developed.

(2) A Class II water project is intended to address chronic health concerns by satisfying the requirements for water quality set forth in NAC 445A.453 and 445A.455. The Division shall prioritize Class II water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each receives for:

(I) Demonstrated or documented noncompliance with ~~F~~

~~———— (i) The rules governing the control of lead and copper found in 40 C.F.R. §§ 141.80 to 141.90, inclusive, 15 points;~~

~~———— (ii) The rule governing the maximum allowable levels of volatile organic contaminants found in 40 C.F.R. § 141.61(a), 11 points;~~

~~———— (iii) The rule governing the maximum allowable levels of synthetic organic contaminants found in 40 C.F.R. § 141.61(e), 9 points;~~

~~———— (iv) The rule governing the maximum allowable levels of inorganic compounds found in 40 C.F.R. § 141.62(b)(1)-(b)(6), (b)(10)-(b)(13) and b(15), 7 points; or~~

~~(v) The rule governing the maximum allowable levels of radium 226, radium 228 and gross alpha particle radioactivity found in 40 C.F.R. § 141.15, 5 points; or~~ *any one of the requirements for water quality set forth in NAC 445A.453, 10 points each;*

(II) Exceeding any one of the secondary drinking water standards found in NAC 445A.455, 1 point each ~~[]~~; *or*

(III) Any other factor as provided in the intended use plan established for the year in which the priority list is developed.

(3) A Class III water project is intended to address deteriorated, substandard or inadequate conditions in the public water system. The Division shall prioritize Class III water projects, giving projects with a higher score priority over projects with a lower score, according to the total score each project receives for the following types of water projects:

(I) The consolidation of water supplies or facilities to eliminate water supplies that are contaminated, eliminate facilities that do not meet state regulations, or enable systems through a physical or management consolidation to comply with technical, managerial and financial capability requirements, 25 points;

(II) The rehabilitation or replacement of treatment facilities that would improve the quality of drinking water to avoid noncompliance with NAC 445A.453 and 445A.455, 20 points;

(III) The rehabilitation, replacement or development of production facilities to replace contaminated sources, 15 points;

(IV) The installation or upgrading of storage facilities associated with finished water reservoirs and reservoirs that are part of a water treatment facility and located on the property where the treatment facility is located to prevent microbiological contaminants from entering the water system, 10 points;

(V) The installation or replacement of transmission pipes to prevent contamination caused by leaks or breaks in the pipes or to improve water pressure to satisfy the requirements of NAC 445A.6672, 8 points;

(VI) The installation or replacement of distribution pipes to prevent contamination caused by leaks or breaks in the pipes or to improve water pressure to satisfy the requirements of NAC 445A.6672, 6 points;

(VII) The installation of equipment, facilities or devices to prevent contamination by backflow or cross-connections and to satisfy the requirements of NAC 445A.67185 to 445A.67255, inclusive, 4 points; ~~and~~

(VIII) The installation of metering, if the metering is intended to satisfy the requirements of water conservation plans developed to comply with NRS 540.121 to 540.151, inclusive, 704.662, 704.6622 and 704.6624, 3 points ~~and~~; *and*

(IX) Any other factor as provided in the intended use plan established for the year in which the priority list is developed.

(4) A Class IV project consists of refinancing any existing debt that was incurred after July 1, 1993, pursuant to 42 U.S.C. § 300j-12(f)(2).

2. The Division shall rank water projects first according to which class the project is in, with Class I water projects having the highest priority and Class IV water projects having the lowest priority, and then within the class according to the point total each water project receives pursuant to the ranking system set forth in subsection 3.

3. Within each class, the water projects will be ranked according to the type of public water system the project will affect in the following order:

(a) Community public water systems;

- (b) Nonprofit, nontransient water systems; and
- (c) Nonprofit, transient water systems.

4. The Division shall not move a water project from one class to another based on the ranking the water project receives from the total points within each class . ~~for combination of classes.~~

~~—5.— For priority lists determined before October 1, 1998, if two or more water projects within a class receive the same number of points assigned pursuant to subsections 1 and 2 and are within the same type of water system as determined pursuant to subsection 3, the Division shall prioritize each water project according to household income with the water project assigned the lowest median household income given the highest ranking. If necessary, the Division shall then determine the population served by each project, with the higher population served given the higher ranking.~~

~~—6.— For priority lists determined after September 30, 1998, the~~

5. *The* product of the initial rank number of a water project within a class of water projects and the ratio of the ~~[statewide]~~ *state* median household income to the median household income that is associated with the service area served by the public water system determines the final rank number associated with the water project within each class.

~~[7.— Requests for financial assistance for emergency situations may be made to the Division at any time pursuant to NAC 445A.67572.~~

~~—8.]~~ 6. *If two or more water projects within the same class have the same final rank number, the water project that is associated with the service area with the highest population shall be deemed to be ranked higher within the class.*

7. The Division may also provide financial assistance pursuant to NAC 445A.67562 for planning and engineering to determine causes of problems in the public water system and to define and carry out solutions. The Division shall prioritize such a project in the order appropriate to the problem that the water project is intended to solve.

Sec. 20. NAC 445A.6757 is hereby amended to read as follows:

445A.6757 1. ~~The~~ *Except as otherwise provided in subsection 4, the* priority of water projects determined by the Division pursuant to NAC 445A.67567 to 445A.67571, inclusive, is subject to the approval of the Board for Financing Water Projects.

2. Except as otherwise provided in ~~[NAC 445A.67572,]~~ *subsection 4,* the Division shall hold a public participation workshop pursuant to NAC 445A.67558 to allow for a period of public review of and to comment on its proposed priority list or a revised priority list.

3. The Division shall consider comments and recommendations made in the public participation process in developing its final priority list or a revised priority list to be presented to the Board for Financing Water Projects.

4. The Division may, without obtaining the approval of the Board for Financing Water Projects or holding a public participation workshop, revise a priority list to correct minor typographical or technical errors.

Sec. 21. NAC 445A.67575 is hereby amended to read as follows:

445A.67575 1. An intended use plan must be prepared by the Division which describes how all money deposited into the Account for the Revolving Fund and the Account for Set-Aside Programs will be used. The intended use plan must include a description of:

(a) How all money that is made available to the Account for the Revolving Fund and the Account for Set-Aside Programs will be used, including, without limitation, money from the following sources:

(1) Capitalization grants; and

(2) State matching funds, including, without limitation, gifts, appropriations, contributions, grants and bequests of money from any public or private source;

(b) How loan repayments will be made;

(c) How interest earnings and bond proceeds will be handled;

(d) The criteria and method used for the distribution of funds;

(e) The financial status of the program;

(f) The short- and long-term goals of the program;

(g) The amounts of money transferred between the Account for the Revolving Fund and the Account to Finance the Construction of Treatment Works and the Implementation of Pollution Control Projects created pursuant to NRS 445A.120;

(h) Any program for a disadvantaged community and the funds utilized for this type of assistance;

(i) The method employed by the Division to rank water projects on the priority list;

(j) Priority lists for:

(1) ~~[Water]~~ *If a water project is ready to proceed in the year in which the priority list is developed, water* projects that will receive funding in the first year after the grant award; and

(2) Water projects that are eligible for funding in future years;

(k) Procedures for altering the status of water projects on the priority list, including, without limitation, the addition of water projects addressing emergency situations; and

(l) The process used to obtain public review and comment of the intended use plan and a summary of responses to any substantial public comments received.

2. As used in this section, “disadvantaged community” means an area served by a public water system in which the ~~[average income per]~~ *median* household *income* is less than 80 percent of the ~~[average]~~ *state* median household income . ~~[of the county in which the area is located.]~~

Sec. 22. NAC 445A.67576 is hereby amended to read as follows:

445A.67576 1. The Division shall conduct a public participation process to obtain public comment and review ~~[pursuant to NAC 445A.67558]~~ before finalizing its intended use plan.

2. Copies of the final intended use plan containing the information set forth in NAC 445A.67575 must be made available in the offices of the ~~[Bureau of Health Protection Services of the]~~ Division, or its successor, and in the main public library of each county throughout this State.

Sec. 23. NAC 445A.67577 is hereby amended to read as follows:

445A.67577 1. Not later than 15 days after the priority list is approved by the Board for Financing Water Projects pursuant to NAC 445A.67571, the Division shall notify each applicant ~~[of]~~ *on* the priority list of the ranking of water projects.

2. ~~[Not later than 30 days after]~~ *After receiving* the notification letter ~~[is sent to each applicant]~~ pursuant to subsection 1, each applicant shall file with the Division a letter of intent, indicating its intentions to either:

- (a) Proceed with an application for financial assistance for proposed water projects; or
- (b) Defer action on an application until a later time.

3. Failure to respond within 30 days after reviewing the notification letter may result in the bypass of the applicant's water project for that year pursuant to the procedure set forth in NAC 445A.67573. ~~[The applicant's water project will remain on the priority list for consideration in the following year.]~~

Sec. 24. NAC 445A.67578 is hereby amended to read as follows:

445A.67578 1. The letter of intent must include:

- (a) The name, address and telephone number of each applicant;
- (b) The title or name, the location and a brief description of the proposed water project, including, without limitation, maps or preliminary plans;
- (c) The number of residential service connections with population served and the number of nonresidential service connections with population served;
- (d) A preliminary estimate of the cost of the water project improvement and any additional costs necessary for financing the water project improvement;
- (e) Preliminary environmental information on a form provided by the Division;
- (f) A description of future improvements planned by the applicant, if any, that are not part of the capital improvement for which the application is made;
- (g) A brief description of how the water project improvement would make the system comply with the requirements for public water systems;
- (h) A statement that the plan of water conservation adopted pursuant to NRS 540.121 to 540.151, inclusive, or 704.662, 704.6622 and 704.6624 will be, or has been, filed with the appropriate regulatory body before receipt of the loan;
- (i) The anticipated schedule for filing an application;
- (j) A request to determine whether the water project is eligible for a categorical exclusion;

(k) *Whether the applicant requests a preapplication conference with the Division;*

(l) Any additional information required by the Division; and

~~[(m)]~~ (m) A brief description of any material changes to the water project that were proposed in the preapplication.

2. The letter of intent must be ~~[addressed]~~ *mailed* to the ~~[State Health Division, Bureau of Health Protection Services,]~~ *Division of Environmental Protection*, Drinking Water State Revolving Fund . ~~[, 1179 Fairview Drive, Carson City, Nevada 89701-5405.~~

~~—3. —An applicant shall provide the original and two copies of the letter of intent to the Division.~~

~~—4.]~~ 3. The applicant's letter of intent to proceed with the proposed water project serves as a request to the Division to:

(a) ~~[Schedule the]~~ *If a* preapplication conference *is requested or determined to be required* pursuant to *the provisions of* NAC 445A.67579 ~~[,]~~, *schedule the preapplication conference;* and

(b) Initiate the process of environmental review pursuant to NAC 445A.6758 to 445A.67612, inclusive.

Sec. 25. NAC 445A.67579 is hereby amended to read as follows:

445A.67579 ~~[1.]~~ The Division shall schedule a preapplication conference ~~[not later than 45 days after the Division receives the letter of intent from the applicant.~~

~~—2. —The owner, an authorized representative of the owner, or the governing or managing body of the public water system of the applicant must attend the preapplication conference.~~

~~—3. —The purposes of the preapplication conference are to:~~

~~—(a) Acquaint the applicant with the general, legal and fiscal requirements of an application for funding;~~

~~—(b) Assist the applicant in:~~

~~——(1) Determining the terms and conditions of the financial assistance, including, without limitation, the interest rate and the amortization schedule of the loan;~~

~~——(2) Identifying other appropriate sources of financing for the applicant's water project, if applicable; and~~

~~——(3) Developing the information necessary to complete an application; and~~

~~—(c) Establish the requirements for the process of environmental review pursuant to NAC 445A.6758 to 445A.67612, inclusive.] if:~~

1. The applicant requests a preapplication conference with the Division in the letter of intent filed pursuant to the provisions of NAC 445A.67578; or

2. The Division determines for good cause that a preapplication conference is needed.

Sec. 26. NAC 445A.6758 is hereby amended to read as follows:

445A.6758 1. The Division shall initiate the process of environmental review after ~~[receiving]~~ :

(a) Receiving a letter of intent from the applicant pursuant to *the provisions of* NAC 445A.67577 and 445A.67578 ~~[~~

~~—2.—The process of environmental review must occur simultaneously with the preparation of the application.~~

~~—3.] ; and~~

(b) The applicant informs the Division that the applicant is ready to proceed with the water project.

2. An applicant shall consult with the Division during the preparation of the plan for the water project to:

(a) Determine whether the Division shall require the applicant to evaluate alternatives to the proposed water project; and

(b) Identify potential environmental issues associated with the proposed water project.

3. The Division shall not offer a loan contract to an applicant for a water project until the process of environmental review is completed.

4. If, at any point during or after the process of environmental review, but before a loan contract is executed, the Division determines that the water project or environmental conditions have changed significantly from those that existed during the initial process of review, the Division may delay execution of the contract to complete an environmental review based upon the new information.

5. If, after a loan contract is executed, the Division determines that the water project or environmental conditions have changed significantly from those that existed during the initial process of review, the Division may delay the water project until the Division is able to determine the impact of the changes.

Sec. 27. NAC 445A.67581 is hereby amended to read as follows:

445A.67581 ~~{The Division shall not require}~~

1. If the Division determines that an applicant ~~{to complete and submit an}~~ ***has completed an environmental review for a water project:***

(a) Within 5 years before the date on which the applicant notifies the Division that the applicant is ready to proceed with the water project pursuant to the provisions of NAC 445A.6758; and

(b) That substantially complies with the provisions of NAC 445A.6758 to 445A.67612, inclusive, ~~[if the applicant submits with his application a permit for construction issued by the Public Utilities Commission of Nevada pursuant to NRS 704.890.]~~

↳ the Division may not require the applicant to conduct a new process of environmental review pursuant to the provisions of NAC 445A.6758 to 445A.67612, inclusive.`

2. If the Division does not require an applicant to conduct a new process of environmental review pursuant to the provisions of subsection 1, the Division shall conduct the procedures for public notice set forth in NAC 445A.67584, 445A.67589 and 445A.67612.

Sec. 28. NAC 445A.67582 is hereby amended to read as follows:

445A.67582 1. The Division shall review a request by an applicant for a categorical exclusion based on the environmental information provided by the applicant pursuant to paragraph (e) of subsection 1 of NAC 445A.67578 and any other relevant information that is submitted to the Division to determine whether:

(a) The water project is eligible for a categorical exclusion; or

(b) The Division shall require the applicant to file an environmental ~~[information document]~~ *assessment* pursuant to NAC 445A.67587.

2. If the water project is determined by the Division to be eligible for a categorical exclusion pursuant to NAC 445A.67583, the Division shall issue notice of its intent to grant a categorical exclusion pursuant to NAC 445A.67584.

Sec. 29. NAC 445A.67583 is hereby amended to read as follows:

445A.67583 1. To determine whether a water project is eligible for a categorical exclusion, the Division shall review ~~[~~

~~—(a) The~~ *the* information included in the letter of intent filed by the applicant pursuant to NAC 445A.67578 . ~~]; and~~

~~—(b) The information presented during the preapplication conference held pursuant to NAC 445A.67579.]~~

2. The following types of water projects may be eligible for a categorical exclusion:

- (a) The rehabilitation of an existing facility;
- (b) The replacement of equipment or structures;
- (c) Construction of a small structure on an existing site;
- (d) Minor upgrading or expansion of the existing capacity of:
 - (1) The distribution system of a public water system; or
 - (2) A public water system to develop and treat water; or
- (e) Any other water project for which there is sufficient evidence that a significant effect on the quality of the environment is unlikely.

3. The following types of water projects are ineligible for a categorical exclusion:

- (a) A water project that creates a new source of water supply;
- (b) A water project that results in more than a minor increase in the capacity of:
 - (1) The distribution system of a public water system; or
 - (2) A public water system to develop and treat water;
- (c) A water project that is known or expected to have a significant effect on the quality of the human environment, regardless of whether the project:
 - (1) Will have an immediate significant effect on the environment; or
 - (2) Will cause the significant effect cumulatively over time,

↳ individually or in conjunction with other private actions or federal, state or local governmental actions;

(d) A water project that is known or expected to affect directly or indirectly:

(1) Recognized cultural resources;

(2) Habitats of endangered or threatened species;

(3) Environmentally important natural resource areas, including, without limitation:

(I) Floodplains;

(II) Wetlands;

(III) Important farmlands;

(IV) Aquifer recharge zones;

(V) Scenic areas; or

(VI) Other resource areas; ~~or~~

(e) A water project that is known or expected not to be cost-effective or cause significant public controversy concerning the natural environment ~~or~~; *or*

(f) A water project that would qualify for a categorical exclusion pursuant to the provisions of subsection 2 but may have a significant effect on the environment.

4. As used in this section, “capacity” means the physical or volumetric ability of the water system to deliver water to consumers.

Sec. 30. NAC 445A.67584 is hereby amended to read as follows:

445A.67584 1. If the Division determines that a water project is eligible for a categorical exclusion pursuant to NAC 445A.67583, the Division shall provide notice of its intent to grant the categorical exclusion.

2. The notice that the Division provides pursuant to subsection 1 must be:

- (a) Published at least once in a newspaper of general circulation throughout the area affected;
- (b) Provided to persons potentially affected by the water project, including, without limitation, adjacent landowners;
- (c) Mailed by the Division to each person included on a mailing list maintained by the Division;
- (d) Provided to appropriate federal and state agencies; and
- (e) Submitted to the state clearinghouse for review by other federal and state agencies.

3. The notice must include:

- (a) A description and location of the proposed water project, or proposed action or determination of the Division;
- (b) Reasons supporting the Division's preliminary determination of eligibility of a water project for categorical exclusion;
- (c) *A statement of whether the water project is being funded in whole or in part by federal funds;*
- (d) The time that the Division will allow for public comment; and
- ~~[(d)]~~ (e) The address to which written comments may be sent.

4. The ~~[(Division shall not consider comments that it receives more than)]~~ *period for public comment concerning the determination that a water project is eligible for categorical exclusion is* 30 days after ~~[(t)]~~ *the Division* has provided the notice in the manner set forth in subsection 2.

Sec. 31. NAC 445A.67585 is hereby amended to read as follows:

445A.67585 1. The Division shall grant a categorical exclusion to an applicant if:

(a) The Division does not receive any significant comments pursuant to the notice it provides pursuant to NAC 445A.67584; and

(b) The water project is otherwise eligible for the categorical exclusion.

2. The Division shall review any comments that it receives pursuant to NAC 445A.67584 and respond to any comments which the Division determines are significant before the Division:

(a) Makes its final determination concerning whether to grant the categorical exclusion; or

(b) Reaffirms a determination to grant a categorical exclusion that the Division had previously granted pursuant to NAC 445A.67586.

3. After the Division grants a categorical exclusion, no further action is required by the Division or the applicant concerning the process of environmental review.

4. If any issues or objections raised pursuant to the comments submitted to the Division pursuant to NAC 445A.67584:

(a) Are resolved, the Division may grant the categorical exclusion.

(b) Remain unresolved and the Division determines that a water project is ineligible for a categorical exclusion, the applicant shall prepare an environmental ~~[information document]~~ *assessment* pursuant to NAC 445A.67587.

Sec. 32. NAC 445A.67586 is hereby amended to read as follows:

445A.67586 1. If 5 years or more have passed since the Division has granted a water project a categorical exclusion and the Division has not yet recommended approval to the Board for Financing Water Projects, the Division shall reevaluate its decision to grant the exclusion , taking into consideration current environmental conditions and public views.

2. If the Division finds as a result of the review it undertakes pursuant to subsection 1 that:

(a) No significant changes have occurred since the Division granted the original categorical exclusion, the Division shall, before recommending approval of the water project to the Board for Financing Water Projects, issue a notice of its intention not to rescind its grant of the categorical exclusion pursuant to the procedures set forth in NAC 445A.67584 and 445A.67585.

(b) Additional information is necessary, the Division may require the applicant to file an environmental ~~[information document]~~ *assessment* and follow any additional requirements of the process of environmental review set forth in NAC 445A.67587 to 445A.67612, inclusive.

Sec. 33. NAC 445A.67587 is hereby amended to read as follows:

445A.67587 1. If the Division determines that a water project is ineligible for a categorical exclusion, the applicant shall prepare an environmental ~~[information document]~~ *assessment* for the water project. ~~[The applicant shall include the environmental information document with, or append it to, the application.]~~ The environmental ~~[information document]~~ *assessment* may make reference to specific sections of the application in lieu of duplicating information found in the application.

2. The environmental ~~[information document]~~ *assessment* must include, without limitation:

(a) A description of the proposed water project;

(b) The purpose of the proposed water project;

(c) ~~[Reasons why]~~ *A summary description of the need for* the proposed water project ~~[is needed;]~~, *including, without limitation, a description of the severity and extent of existing public health or water quality problems;*

(d) A description of the environmental setting of the proposed water project and prediction of what the future of the environmental setting would be without the water project;

(e) A description of ~~possible alternatives to the proposed water project and the potential environmental impacts of such alternatives;~~

~~—(f) A description of the potential environmental impacts that the proposed water project will have, including, without limitation, specification of those environmental impacts which cannot be avoided after the project is completed;~~ *the full range of relevant environmental impacts of the proposed action, including, without limitation, a description of measures taken by the applicant to mitigate adverse impacts and of any irreversible commitments of resources to the water project;*

(f) A comparative analysis of feasible alternatives to the water project, including, without limitation, the alternative that the water project not be constructed, reviewed with respect to:

- (1) Capital and operating costs;*
- (2) Direct, indirect and cumulative environmental effects;*
- (3) Physical, legal or institutional constraints; and*
- (4) Compliance with regulatory requirements;*

(g) The reasons for rejecting any alternative, including, without limitation, a description of any significant environmental benefits that will be precluded by rejection of an alternative;

(h) A description of how any short-term detrimental impact to the environment in the short term is justified by the maintenance and enhancement of the environment from the long-term use of the facility;

~~(h)~~ *(i) Any irreversible and irretrievable commitments of resources to the proposed water project;*

~~(j)~~ (j) Documentation of any activities, meetings or coordination between the applicant and the public or any appropriate governmental agencies to identify and discuss issues associated with the proposed water project and allow public and agency review of the project; ~~and~~

~~(k)~~ (k) A summary of any issues raised about, and changes made by the applicant to, the water project that were made as a result of the activities, meetings or coordination documented pursuant to paragraph ~~(j)~~ (j);

(l) Sources of information that the applicant used to describe the existing environment and to assess future environmental impacts, including, without limitation, regional, state and federal agencies; and

(m) Any other information or documentation that the Division requests.

3. The environmental ~~information document~~ *assessment* must describe any significant environmental effects that the applicant believes the proposed water project will have.

4. The effects that the applicant describes must include, without limitation:

(a) The primary, secondary and indirect impacts of construction;

(b) The cumulative impacts of the applicant's proposed water projects together with other similar actions that have been taken, regardless of who has taken them; and

(c) The impacts on:

(1) Threatened or endangered species;

(2) Wetlands;

(3) Environmentally significant agricultural land;

(4) Fish and wildlife;

(5) Cultural resources;

(6) Open spaces;

- (7) Environmentally sensitive areas;
- (8) Air quality;
- (9) Ground water and surface water quality and quantity;
- (10) Land-use plans;
- (11) Energy use;
- (12) Long-term versus short-term trade-offs of costs and benefits;
- (13) Accommodation of water projects to future population growth;
- (14) Floodplains; and
- (15) Areawide planning.

5. Water projects funded from the Account for the Revolving Fund must conform to any state implementation plan or air quality management district plan approved or promulgated pursuant to 42 U.S.C. §§ 7401 et seq.

6. The applicant shall make the draft environmental assessment available for review and comment by the public in a public participation process conducted pursuant to the provisions of section 4 of this regulation.

7. After the applicant has conducted the public participation process required pursuant to the provisions of subsection 6, the applicant shall submit to the Division:

(a) The draft environmental assessment; and

(b) A summary of the results of the public participation process, including, without limitation, any public comments submitted to the applicant relating to the draft environmental assessment.

Sec. 34. NAC 445A.67588 is hereby amended to read as follows:

445A.67588 1. ~~[The Division shall review the environmental information document and other material submitted by the applicant and shall have the applicant prepare a draft environmental assessment of the proposed water project in sufficient detail to serve as an independent environmental review. The draft environmental assessment may incorporate by reference the environmental information document.~~

~~—2.— The Division may require the applicant to submit supplementary information to complete the draft environmental assessment.~~

~~—3.— The draft environmental assessment must include:~~

~~—(a) Identification of potentially significant environmental concerns and all potential environmental impacts;~~

~~—(b) An analysis of the existing environmental conditions relevant to the analysis of alternatives or to determining the environmental impacts of the proposed action;~~

~~—(c) A prediction of the future environmental conditions for the area of the water project if the water project is not yet completed;~~

~~—(d) The purpose of the facility;~~

~~—(e) A summary description of the need for the facility, including, without limitation, a description of the severity and extent of existing public health or water quality problems;~~

~~—(f) A comparative analysis of feasible alternatives to the water project, including, without limitation, the alternative that the water project not be constructed, reviewed with respect to:~~

~~——(1) Capital and operating costs;~~

~~——(2) Direct, indirect and cumulative environmental effects;~~

~~——(3) Physical, legal or institutional constraints; and~~

~~——(4) Compliance with regulatory requirements;~~

- ~~—(g) The environmental consequences of long-term or irreversible environmental impacts;~~
- ~~—(h) The reasons for rejecting any alternative, including, without limitation, a description of any significant environmental benefits that will be precluded by rejection of an alternative;~~
- ~~—(i) A description of the full range of relevant environmental impacts of the proposed action, including, without limitation, a description of measures taken by the applicant to mitigate adverse impacts and of any irreversible commitments of resources to the water project;~~
- ~~—(j) A description of any specific requirements the applicant has for the water project, including, without limitation, a description of any conditions imposed on the applicant for financial assistance and the requirements of any relevant regional planning;~~
- ~~—(k) Sources of information that the applicant used to describe the existing environment and to assess future environmental impacts, including, without limitation, regional, state and federal agencies; and~~
- ~~—(l) Any other information or documentation that the Division requests.~~
- ~~—4. The Division shall make the draft environmental assessment available for review and comment by the public in a public participation process that conforms with the procedures set forth in NAC 445A.67558, except that the Division shall provide notice of the time and place for the meeting not less than 15 days before the meeting.~~
- ~~—5.] After the Division considers **[any] the draft environmental assessment and public** comments offered pursuant to the public participation process **[.] which were submitted to the Division pursuant to the provisions of NAC 445A.67587**, the Division shall issue:
 - (a) A preliminary finding of no significant impact pursuant to NAC 445A.67589 to 445A.67592, inclusive; or~~

(b) A notice of intent to prepare an environmental impact statement pursuant to NAC 445A.67593 to 445A.67612, inclusive.

~~{6.}~~ 2. After an applicant has received a notice of intent to prepare an environmental impact statement pursuant to paragraph (b) of subsection ~~{5.}~~ 1, the applicant may request that his proposed water project be partitioned into two or more discrete components for the purposes of the process of environmental review pursuant to NAC 445A.67593.

Sec. 35. NAC 445A.67589 is hereby amended to read as follows:

445A.67589 1. If the Division determines that it intends to make a finding of no significant impact for a water project, the Division shall provide notice of its intention using the procedures for providing notice set forth in subsection 2. The Division shall list in its finding all mitigation measures the applicant must take.

2. The notice provided pursuant to subsection 1 must be:

(a) Published at least once in a newspaper of general circulation throughout the area affected;

(b) Provided to persons potentially affected by the water project, including, without limitation, adjacent landowners;

(c) Mailed by the Division to each person included on a mailing list maintained by the Division;

(d) Provided to appropriate federal and state agencies; and

(e) Submitted to the state clearinghouse for review by other federal and state agencies.

3. The notice must include:

(a) A description and location of the proposed water project, or proposed action or determination of the Division;

(b) Reasons supporting the Division's preliminary finding of no significant impact for the project;

(c) The time that the Division will allow for public comment; and

(d) The address to which written comments may be sent.

4. The ~~Division will not consider comments that the Division receives more than~~ *period for public comment concerning a finding of no significant impact is* 30 days after ~~it~~ *the Division* has provided notice in the manner set forth in subsection ~~3.~~ *2.*

Sec. 36. NAC 445A.67591 is hereby amended to read as follows:

445A.67591 1. If 5 years or more have passed since the Division has issued a finding of no significant impact to a water project and the Division has not yet recommended approval to the Board for Financing Water Projects, the Division shall reevaluate its decision to issue the finding, taking into consideration current environmental conditions and public views.

2. If the Division finds as a result of the review it undertakes pursuant to subsection 1 that:

(a) No significant changes have occurred since the Division originally issued the finding of no significant impact, the Division shall, before recommending approval of the water project to the Board for Financing Water Projects, issue a notice *to the public* of its intention not to rescind its finding of no significant impact pursuant to the procedures set forth in NAC 445A.67589. ~~to 445A.67592, inclusive.~~

(b) Additional information is necessary to supplement the original environmental ~~information document,~~ *assessment*, the Division may require the applicant to prepare and submit an environmental impact statement pursuant to NAC 445A.67594 to 445A.67612, inclusive.

Sec. 37. NAC 445A.67593 is hereby amended to read as follows:

445A.67593 1. An applicant may request that the Division allow the applicant to partition a water project into two or more discrete components if:

(a) The Division has determined that it will require the applicant to prepare and submit an environmental impact statement for the entire proposed water project pursuant to NAC 445A.67594 to 445A.67612, inclusive;

(b) The applicant has identified for the Division the reasonable alternatives to the entire proposed water project; and

(c) The remainder of the proposed water project satisfies the requirements of NAC 445A.67587 to 445A.67612, inclusive.

2. Each discrete component of a proposed water project that is partitioned pursuant to subsection 1 is subject to the process of environmental review.

3. A request for partitioning submitted pursuant to subsection 1 must contain:

(a) A description of the discrete component of the proposed water project for which the applicant is requesting financial assistance;

(b) A description of how the discrete component satisfies the requirements set forth in subsection 4; and

(c) Any environmental information that the Division requires to make a final determination on the process of environmental review.

4. For a proposed water project to qualify for partitioning, the discrete component of the project for which the applicant is requesting financial assistance must:

(a) Immediately remedy an acute or severe public health or water quality problem ~~or~~ *or result in a savings in the total cost of the water project;*

(b) Not foreclose any reasonable alternatives identified for the entire proposed water project;

(c) Not cause significant, adverse, direct or indirect environmental impacts, including, without limitation, impacts that cannot be acceptably mitigated without finishing the entire proposed water project; and

(d) Not cause a high degree of controversy among persons who will be affected by the discrete component of the proposed water project.

5. Upon receiving a request to partition a proposed water project, the Division shall determine whether partitioning is appropriate pursuant to this section.

6. ~~¶ The Division may partition an applicant's water project only if the Division determines that not doing so would:~~

~~—(a) Significantly increase the cost of the entire proposed water project; or~~

~~—(b) Significantly reduce the effectiveness of the entire proposed water project.~~

~~—7.]~~ If the Division partitions an applicant's water project, the Division may execute a loan contract with the applicant to fund only any portion of the project that the Division has approved pursuant to NAC 445A.67617 to 445A.67623, inclusive.

~~¶8.]~~ 7. If the Division determines that partitioning:

(a) Is appropriate, the Division shall prepare and issue a finding of no significant impact for the discrete component pursuant to the procedures set forth in NAC 445A.67589 to 445A.67592, inclusive.

(b) Is not appropriate, the Division shall provide the applicant with notice of its determination.

Sec. 38. NAC 445A.67597 is hereby amended to read as follows:

445A.67597 1. The applicant shall:

(a) Provide five copies of the draft environmental impact statement to the Division;

- (b) Provide copies of the draft environmental impact statement to all local, state and federal agencies and public organizations that have an interest in the proposed water project; and
 - (c) Make copies of the draft environmental impact statement available for public review.
2. The Division shall provide notice of the availability of the draft environmental impact statement for review as soon as possible after the Division receives copies of the draft.
3. The notice provided pursuant to subsection 2 must be:
- (a) Published at least once in a newspaper of general circulation throughout the area affected;
 - (b) Provided to persons who are potentially affected by the water project, including, without limitation, adjacent landowners;
 - (c) Mailed by the Division to each person included on a mailing list maintained by the Division for the water project;
 - (d) Provided to appropriate federal agencies; and
 - (e) Submitted to the state clearinghouse for review by other federal and state agencies.
4. The notice must include:
- (a) A description and location of the proposed water project;
 - (b) The place at which the draft environmental impact statement may be reviewed;
 - (c) The time allowed for public comment concerning the draft environmental impact statement; and
 - (d) The address to which written comments may be sent.
5. The ~~Division shall not consider comments that the Division receives more than~~ *period for public comment concerning a draft environmental impact statement is* 30 days after ~~it~~ *the Division* has provided the notice in the manner set forth in subsection 3.

Sec. 39. NAC 445A.67611 is hereby amended to read as follows:

445A.67611 1. After an applicant submits a final environmental impact statement to the Division, the Division shall complete the process of environmental review by:

- (a) Reviewing the final environmental impact statement; and
- (b) Issuing a ~~[final determination]~~ *record of decision* that identifies any appropriate mitigation.

2. Before the Division may recommend to the Board for Financing Water Projects that it approve an application, the applicant shall provide assurance that it will carry out any mitigation identified in the ~~[final determination]~~ *record of decision*. The Division shall condition the loan contract upon compliance by the applicant with that mitigation.

3. A loan contract may be executed only after the Division has issued the ~~[final determination]~~ *record of decision* and the Board for Financing Water Projects has approved the water project.

4. Any changes in design or environmental conditions that were not considered in the process of environmental review are subject to the provisions of NAC 445A.6758.

Sec. 40. NAC 445A.67612 is hereby amended to read as follows:

445A.67612 1. If 5 years or more have passed since the Division has issued its ~~[final determination]~~ *record of decision* regarding a final environmental impact statement and the Division has not yet recommended approval to the Board for Financing Water Projects, the Division shall reevaluate its ~~[determination]~~ *decision*, taking into consideration current environmental conditions and public views.

2. If the Division finds, as a result of its review pursuant to subsection 1, that no significant changes have occurred since the original ~~[final determination]~~ *record of decision* was made, the Division shall, before recommending approval of the water project by the Board for Financing

Water Projects, issue a notice of its intention not to change the original ~~final determination.~~
record of decision. The Division shall:

(a) Publish the notice at least once in a newspaper of general circulation throughout the area affected;

(b) Provide the notice to persons potentially affected by the water project, including adjacent landowners;

(c) Mail the notice to each person included on the mailing list maintained by the Division for the water project;

(d) Provide the notice to appropriate federal agencies; and

(e) Submit the notice to the state clearinghouse for review by other state and federal agencies.

3. The notice must include:

(a) A description of the proposed water project, including its location;

(b) Information regarding the availability of the original environmental impact statement;

(c) The material upon which the Division relied for the issuance of the notice and the address where that material may be reviewed;

(d) The time allowed for public comments regarding the notice; and

(e) The address where written comments may be sent.

4. The ~~Division shall not consider comments that the Division receives more than~~ *period for public comments concerning the notice of the intention of the Division not to change the original record of decision is* 30 days after ~~it~~ *the Division* has provided the notice in the manner set forth in subsection 2.

5. If no significant comments are received by the Division within the time prescribed in subsection 4, the Division may issue its ~~[final determination]~~ *record of decision* that the process of environmental review is complete.

6. If the Division finds, as a result of its review pursuant to subsection 1 or its receipt of information pursuant to subsection 4, that additional information is necessary to supplement the original environmental ~~[information document,]~~ *assessment*, the process of environmental review for the water project must comply with the procedure set forth in NAC 445A.67594 to 445A.67612, inclusive.

Sec. 41. NAC 445A.67613 is hereby amended to read as follows:

445A.67613 1. An applicant may make a formal request for financial assistance from the Account for the Revolving Fund by filing with the Division an application at any time after the ~~[preapplication conference is held.]~~ *applicant has filed the letter of intent pursuant to the provisions of NAC 445A.67578.*

2. An application for a short-term loan submitted pursuant to NAC 445A.67562 must include, without limitation:

(a) The name, address and telephone number of the applicant or a legal representative of the applicant;

(b) A brief description of the proposed water project, including, without limitation, its effect on the public water system;

(c) A brief description of the need for water project planning, design and other related costs;

(d) The estimated costs for the request;

(e) Information necessary to understand the alternatives to be considered and their environmental impact;

- (f) Information necessary for the Division to determine how the loan is to be repaid; and
- (g) Any other information deemed necessary by the Division.

3. An application for a long-term loan submitted pursuant to NAC ~~[445A.67564]~~

445A.67561 must include, without limitation:

(a) The name, address and telephone number of the applicant or the legal representative of the applicant.

(b) A brief description of the proposed water project, including, without limitation, its anticipated effect on the public water system.

(c) The number of service connections and estimated population currently served by the applicant.

(d) An estimate of the number of service connections and future population to be served by the water project for the useful life of the water project.

(e) Maps of appropriate scale to show clearly the location of the proposed water project with respect to other identifiable topographical or geographical features in the service area of the public water system.

(f) A complete and legible legal description of the entire area of service for the water project improvement, including, without limitation, a map showing the layout of the water project with clear reference to aerial or other maps showing sections and townships.

(g) Proof of ownership, rights-of-way, easements or agreements showing that the applicant holds or is able to acquire all land, other than public land, or acquire interests therein and any water rights necessary for the construction of the proposed water project. Copies of deeds to land to be occupied, records of surveys, easements, agreements or permits to appropriate water granted pursuant to chapters 533 and 534 of NRS may be used as evidence of ownership.

(h) A description of how the water project complies with planning and zoning requirements.

(i) A copy of the current plan of water conservation adopted by the applicant pursuant to NRS 540.121 to 540.151, inclusive, or 704.662, 704.6622 and 704.6624, as applicable, and an analysis of the effectiveness of the plan.

(j) A description of the best available technology for the water project being proposed.

(k) An itemized estimate of the total cost of the water project that is prepared by a professional engineer.

(l) ~~Plans of the water project sufficient to:~~

~~—(1) Meet the requirements of NAC 445A.450 to 445A.6731, inclusive; and~~

~~—(2) Evaluate the engineering feasibility of the water project.~~

~~(m)~~ Information sufficient to demonstrate, through a systematic and cost-effective analysis of alternatives that are feasible, that the alternative selected is the most effective means of meeting the applicable water quality and public health requirements over the design life of the facility.

~~(n)~~ (m) A preliminary water project schedule that provides a timetable for:

(1) Advertising and opening bids;

(2) The start of the construction phase;

(3) The estimated schedule of progress payments to the contractor and other costs related to the drawdown of funds in the Account for the Revolving Fund;

(4) Completion of the construction phase; and

(5) Initiation of the operation of the water project.

~~(o)~~ (n) A description of how the costs for capital construction, operation and maintenance and costs for debt service to support the loan will be recovered, including, without limitation:

(1) A proposed revenue program that demonstrates the cost effect on users of the public water system, including, without limitation, any connection fees or changes in user charges;

(2) Orders or resolutions specifying the method of loan repayment from the appropriate governing board, regulatory agency or local governing body having rate jurisdiction;

(3) ~~Results of bond elections;~~

~~(4)~~ Contractual loan agreements; or

~~(5)~~ (4) Any other information necessary for the Division to understand how the applicant intends to repay the loan.

~~(p)~~ (o) Estimated costs of future expansion and long-term needs for reconstruction of facilities following their design life.

~~(q)~~ (p) A summary of public participation in the development of the proposed water project.

~~(r)~~ (q) Institutional and management arrangements required for successful implementation of the water project.

~~(s)~~ (r) A report on the status of the process of environmental review for the project.

~~(t)~~ (s) A list of any required permits and a schedule of when those permits will be obtained.

~~(u)~~ (t) The financial history of the applicant, including, without limitation, annual financial statements for the preceding 3 years.

(u) Financial projections for a period of at least 5 years after the completion of the water project, including, without limitation, projected revenue and expenses.

(v) A list of previously approved loans to the applicant within the past 10 years, including, without limitation, the terms and conditions of payment and a statement of the remaining balances of any outstanding loans.

(w) ~~[(A)]~~ *If the water project is for a public water system that is privately owned, at* least three credit references.

(x) Copies of current capital improvement plans and debt management policies as provided to the Department of Taxation pursuant to chapter 350 of NRS and any applicable regulation.

(y) Security for the loan, if applicable.

(z) Evidence that the public water system has the capability to comply with the Safe Drinking Water Act and NAC 445A.450 to 445A.6731, inclusive.

4. To ensure a complete application, the applicant shall submit any other information deemed necessary by the Division.

5. The information required pursuant to paragraph ~~[(m)]~~ (l) of subsection 3 must include, without limitation:

(a) A description of how the alternatives listed will meet the water quality and public health needs, including, without limitation, an estimate of any future growth expected after the water project becomes operational;

(b) An estimate of how improving the operations, maintenance and efficiency of existing facilities will improve the performance of the public water system compared to how much the performance would be improved by constructing new facilities;

(c) A description of any opportunities the water project will provide to reduce the use of energy or to recover energy;

(d) An estimate of the total capital costs and the annual operation and maintenance costs; and

(e) An estimate of the annual or monthly costs to residential, commercial and industrial users during the 20 years after completion of the water project.

6. An applicant shall consider the present worth or equivalent annual value of all capital, operation and maintenance costs when satisfying the requirements of paragraph ~~[(m)]~~ (l) of subsection 3.

7. The forecasts of population that an applicant provides pursuant to paragraph ~~[(m)]~~ (l) of subsection 3 must be consistent with any forecasts of population that the state demographer has prepared.

8. As used in this section, “best available technology” means the technology, treatment technique or procedure that the EPA finds is the most appropriate and most cost-effective for solving a particular problem after examining the efficacy of the technology, technique or procedure under laboratory and field conditions.

Sec. 42. NAC 445A.67615 is hereby amended to read as follows:

445A.67615 1. An application is complete when the Division determines that the applicant has supplied all the information required in this section and NAC 445A.67613.

2. Except as otherwise provided in subsections 3 and 4, an application is not complete until the Division receives:

(a) A copy of any permit necessary for compliance with planning and zoning requirements, including, without limitation, any necessary variances or special use permits; or

(b) A copy of any permit that an agency has issued that is a necessary prerequisite for the proposed water project to proceed.

3. The Division may waive the requirements of subsection 2 if it has received information from a reliable source that the proposed water project will receive or has received a permit required by any governmental agency.

4. The Division may, before it receives any permit required pursuant to subsection 2 which requires the submission of a detailed engineering design, recommend approval of an application if there are no foreseeable conditions that may make the proposed water project unfeasible.

5. If an applicant submits an incomplete application, the Division shall request that the applicant provide the required missing data or information. If the applicant does not provide the missing data or information, the Division shall notify the applicant in writing and specify what data or information is missing from the application. The applicant must supply the missing data or information not later than 60 days after the date the Division mails the written notice or the Division shall reject the application. If the applicant is rejected, he may reapply pursuant to the requirements set forth in NAC 445A.6751 to 445A.67644, inclusive ~~[1]~~, *and sections 2, 3 and 4 of this regulation.*

Sec. 43. NAC 445A.6762 is hereby amended to read as follows:

445A.6762 ~~[1]~~ The Division shall notify the applicant ~~[and the Administrator]~~ in writing no later than 15 days after it receives notice of the action taken by the Board for Financing Water Projects regarding the recommendations submitted pursuant to subsection 2 of NAC 445A.67619. The notification must include a copy of the written order of the Board.

~~[2.— The Administrator shall, within 15 days after his receipt of the notification required by subsection 1, submit a written request to the State Treasurer for the issuance of securities in an amount sufficient to provide to the Account for the Revolving Fund the amount of funding required to be committed by the State for purposes of the loan. The Administrator must include with his request a schedule regarding the time when that funding will be needed.~~

~~— 3.— The Administrator shall not enter into a loan contract with the applicant until the State Treasurer has agreed to comply with the request submitted pursuant to subsection 2.]~~

Sec. 44. NAC 445A.67621 is hereby amended to read as follows:

445A.67621 1. After receiving the notification required pursuant to NAC 445A.6762 and before advertising for bids, an applicant shall submit to the Division a final set of plans and specifications for the water project.

2. The Division shall examine the plans and specifications to determine whether:

(a) ~~The design is consistent with the information submitted pursuant to paragraph (1) of subsection 3 of NAC 445A.67613;~~

~~(b)~~ The water project will satisfy the requirements set forth in NAC 445A.453 and 445A.455; and

~~(e)~~ (b) The water project will comply with all applicable federal and state requirements.

Sec. 45. NAC 445A.67622 is hereby amended to read as follows:

445A.67622 ~~(1)~~ The Division shall not offer a loan contract to an applicant until:

~~(a)~~ 1. The Board for Financing Water Projects has issued its approval of the water project to the applicant;

~~(b) The Division has examined and approved the final set of plans and specifications for the water project pursuant to NAC 445A.67621; and~~

~~(c)~~ and

2. The applicant has ~~submitted~~ :

(a) *Submitted* to the Division a definite schedule for the water project which includes:

(1) A reasonable period to complete the water project after the commencement of bidding;

and

(2) The times when funds are expected to be drawn from the Account for the Revolving

Fund ~~(~~

~~2.—Except as otherwise provided in subsection 3 of NAC 445A.6762, the Division shall, after it receives notice of the action taken by the Board for Financing Water Projects regarding the recommendations submitted pursuant to subsection 2 of NAC 445A.6762, prepare and transmit a loan contract to the applicant.]; and~~

(b) If collateral for the loan is required, provided the collateral.

Sec. 46. NAC 445A.67624 is hereby amended to read as follows:

445A.67624 1. Before commencing the construction of a water project, a recipient shall submit to the Division:

- (a) Bidding schedules, estimated schedules of payment and any other information the Division deems necessary to determine the progress of the water project;
 - (b) Proof of the receipt of all permits required to construct the water project;
 - (c) Documentation that any procedures for purchasing and contracting required by a state agency or the Federal Government will be followed;
 - (d) Agendas for any conferences regarding the water project held by the recipient before the commencement of bidding and construction;
 - (e) Schedules for the design of the project, engineering, the procurement of materials, construction and any other activity related to the water project; and
 - (f) Any other documents that the Division deems necessary.
2. The recipient shall, at least 5 days before holding any conference described in paragraph (d) of subsection 1, notify the Division of the date, time and location of the conference.
3. The recipient shall not commence the construction of the water project until receipt from the Division of a notice to proceed with the water project. The Division may issue such a notice only after ~~the~~ :

(a) *The* recipient has complied with the provisions of subsection 1 to the satisfaction of the Division ~~[H]~~; *and*

(b) *The Division has examined and approved the final set of plans and specifications for the water project pursuant to NAC 445A.67621.*

Sec. 47. NAC 445A.67626 is hereby amended to read as follows:

445A.67626 1. A recipient:

(a) May submit to the Division periodic requests for the disbursement of money pursuant to the loan. Each request must be on a form provided by the Division.

(b) ~~[Shall submit to the Division copies of all contracts related to the water project, including contracts for construction, procurement and the provision of professional services. Any invoice submitted by the recipient for the payment of reimbursable costs must include references to the authorizing contracts and, if such a contract is divided into separate tasks, references to those tasks.~~

~~—(c)]~~ Shall submit to the Division proof that any prior disbursements of money pursuant to the loan have been distributed by the recipient in an appropriate manner. The proof must consist of copies of the front and back of cancelled checks issued by the recipient for the payment of reimbursable costs.

2. The disbursement of any money to a recipient must comply with the loan contract.

3. The approval of each payment must be based on the actual reimbursable costs incurred to date.

Sec. 48. NAC 445A.67628 is hereby amended to read as follows:

445A.67628 1. The ~~[accounting standards contained in Governmental Auditing Standards, 1994 Revision published by the General Accounting Office are hereby adopted]~~ *Commission*

hereby adopts by reference ~~[]~~ *the most current pronouncements issued by the Governmental Accounting Standards Board, unless a pronouncement is disapproved by the Commission within 60 days after the date the pronouncement is published. The Commission will review each pronouncement to ensure its suitability for this State.* A copy of ~~[this publication is]~~ *the pronouncements are* available at a cost of ~~[\$5]~~ \$65 from the ~~[Superintendent of Documents, United States Government Printing Office,]~~ *Governmental Accounting Standards Board, 401 Merritt 7, P.O. Box [371954, Pittsburgh, Pennsylvania 15250-7954 (telephone: 202-512-1800) or is available for review at the U.S. Government Depository, Nevada State Library, Carson City, Nevada.] 5116, Norwalk, Connecticut 06856-5116, by telephone at (800) 748-0659 or at the Internet address <<http://store.yahoo.com/gasbps/gop03.html>>.*

2. *The Commission hereby adopts by reference the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989. If the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989 conflict with the most current pronouncements issued by the Governmental Accounting Standards Board adopted by reference pursuant to subsection 1, the pronouncements issued by the Governmental Accounting Standards Board apply. A copy of the pronouncements is available at a cost of \$109.95 from John Wiley and Sons, Inc., Customer Care Center - Consumer Accounts, 10475 Crosspoint Boulevard, Indianapolis, Indiana 46256, by telephone at (877) 762-2974 or at the Internet address <<http://www.wiley.com/WileyCDA/WileyTitle/productCd-0471230138.html>>. The pronouncements are also available, free of charge, from the Financial Accounting Standards Board at the internet address <<http://www.fasb.org/st/index.shtml>>.*

3. A recipient shall maintain separate accounts for water projects in accordance with generally accepted ~~[governmental accounting standards,]~~ *accounting principles*, including, *without limitation*, those adopted by reference in ~~[subsection 1.]~~ *subsections 1 and 2*.

Sec. 49. NAC 445A.67632 is hereby amended to read as follows:

445A.67632 Any system of user charges imposed by a recipient must:

1. Be designed to produce the money required for the costs of operation, maintenance and replacement of the water project and public water system;
2. Provide that each user or class of users shall pay its proportionate share of the costs of operation, maintenance and replacement of the water project and public water system; *and*
3. ~~[Provide that each user will be notified at least annually, in conjunction with a regular bill or other means acceptable to the Division, of the portion of the bill attributable to:~~
 - ~~—(a) The costs of operation, maintenance and replacement of the water project and public water system; and~~
 - ~~—(b) The retirement of the debts of the water project and public water system; and~~~~—4.]~~ Include an adequate system of financial management that will account accurately for revenues generated by the system and expenditures for operation, maintenance and replacement based on an adequate budget identifying the basis for determining the annual cost of operation and maintenance, including, without limitation, the cost of personnel, equipment, services, supplies, energy and administration, and replacement of facilities that have exceeded their useful life.

Sec. 50. NAC 445A.67634 is hereby amended to read as follows:

445A.67634 If a public water system is publicly owned:

1. The recipient must comply with any applicable provisions of chapter 338 of NRS , ~~and~~ chapter 338 of NAC *and all applicable federal laws and regulations* regarding the award and administration of contracts for water projects.

2. The recipient shall ensure compliance with all legal requirements for advertising for bids and awarding construction contracts.

3. The Division ~~shall~~ *may* review the awards to ensure that the recipient and its consultants and contractors have complied with any applicable federal and state laws.

4. The recipient is solely responsible for the resolution of any disputes relating to bidding. The Division shall not participate in the resolution of such a dispute.

Sec. 51. NAC 445A.67637 is hereby amended to read as follows:

445A.67637 A recipient shall ensure that, if his contractor for a water project awards any subcontracts relating to the water project, the contractor takes affirmative steps to ensure that disadvantaged businesses are used to the extent possible as sources of supplies, equipment, construction and services. These affirmative steps must include:

1. Including such businesses on solicitation lists;
2. Ensuring that such businesses are solicited if they are potential sources;
3. Dividing total requirements, if economically feasible, into small tasks or quantities to permit maximum participation by disadvantaged businesses; ~~and~~
4. *Establishing a schedule for the delivery of a requirement, if the requirement permits, to allow maximum participation by disadvantaged businesses;*
5. Using the services of the Nevada Commission on Economic Development and the business advocacy office to locate disadvantaged businesses capable of performing the work to be subcontracted ~~and~~; *and*

6. Ensuring that all subcontractors for the water project comply with the provisions of subsections 1 to 5, inclusive.

Sec. 52. NAC 445A.67639 is hereby amended to read as follows:

445A.67639 The Division may conduct oversight inspections during the construction of a water project. The primary purpose of any such inspection must be to ascertain that the recipient is constructing the water project according to the approved plans and specifications and applicable contract requirements. ~~[The first inspection must normally be conducted before the water project is 10 percent complete. Subsequent inspections]~~ **Inspections** must be conducted as they are deemed necessary by the Division.

Sec. 53. NAC 445A.6764 is hereby amended to read as follows:

445A.6764 ~~[Before]~~ **Not later than 90 days after** a water project is ~~[90 percent completed,~~ **completed, the** recipient shall submit to the Division a draft of the manual of operations and maintenance for the water project required pursuant to NAC 445A.6667. ~~[Not more than 90 percent of the total financial assistance for the water project may be provided until the manual has been reviewed and approved by the Division.]~~

Sec. 54. NAC 445A.67516, 445A.6753 and 445A.67572 are hereby repealed.

TEXT OF REPEALED SECTIONS

445A.67516 “Board” defined. “Board” has the meaning ascribed to it in NRS 445A.210.

445A.6753 “Environmental information document” defined. “Environmental information document” means a document prepared by an applicant that contains sufficient information to enable the Division to prepare or have prepared an environmental assessment.

445A.67572 Request for financial assistance in emergency situation.

1. In an emergency situation, an applicant requesting assistance from the Account for the Revolving Fund may follow the application procedures set forth in NAC 445A.67613 to 445A.67616, inclusive, without waiting for a revision to the priority list.

2. The Division shall provide notice by mail to all applicants on the approved priority list of an application filed pursuant to subsection 1 and provide an opportunity for any comments or objections to be filed with the Division not later than 30 days after the date of the notice. Objections filed after this date will not be considered.

3. If there are objections that cannot be resolved by the Division before proceeding with the application filed pursuant to subsection 1, the Division may request that the matter be heard at the next meeting of the Board for Financing Water Projects for resolution. A minimum of 15 days’ notice of the matters to be considered by the Board for Financing Water Projects will be provided by the Division to all the public water systems that are represented on the priority list.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R128-04**

The State Environmental Commission adopted regulations assigned LCB File No. R128-04 which pertain to chapter 445A of the Nevada Administrative Code on November 30, 2004.

Notice date: 10/26/2004
Hearing date: 11/30/2004

Date of adoption by agency: 11/30/2004
Filing date: 2/14/2005

INFORMATIONAL STATEMENT

The 2003 Nevada State Legislature transferred the Drinking Water State Revolving Fund (DWSRF) from the State Health Division to the Division of Environmental Protection (NDEP). This regulation addresses regulatory changes to reflect administration of the program by the NDEP. The regulation also includes minor changes that streamline administration of the program.

1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.

The Nevada Division of Environmental Protection, Bureau of Water Pollution Control held public hearings at the following locations to solicit comments from interested parties about the proposed changes in the regulations referenced above.

Carson City

Tuesday, June 10, 2004
10:00 AM - 12:00 Noon
Room 101
333 West Nye Lane

Las Vegas

Tuesday, June 7, 2004
1:00 PM – 3:00 PM
1771 E Flamingo Rd
Suite 121-A
Las Vegas NV 89119

Elko

Thursday, June 3, 2004
9:00 AM – 11:00 AM
720 Court St
Elko NV 89801

Proposed changes to these regulations were also noticed by the State Environmental Commission (SEC) in the Las Vegas Review Journal (LVRJ) and Reno Gazette Journal (RGJ) newspapers on the following dates – November 8, 15, and 22, 2004. The public was subsequently mailed a public notice and meeting agenda for the SEC hearing; the SEC mailing lists were used for both mailings.

At the SEC hearing, there were no public oral comments received by the Commission during the adoption of the referenced regulation.

2. The number persons who:

- (a) **Attended August 19, 2004 hearing:** 30
- (b) **Testified on this Petition at the hearing:** 1
- (c) **Submitted to the agency written comments:** None

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected businesses by the notice in the newspapers, as outlined in #1 above and by direct mail to interested persons subscribing to the SEC electronic mailing lists. The public notice for the referenced SEC meeting was also sent to county libraries throughout the state and the proposed regulation was made available for public inspection in libraries in Clark and Washoe Counties, at the State Library in Carson City, and at the offices of the Nevada Division of Environmental Protection in Carson City and Las Vegas. The regulation, public notice and meeting agenda were also made available on SEC Website at:

<http://www.sec.nv.gov/main/hearing113004.htm>

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The State Environmental Commission adopted the regulation on November 30, 2004; the SEC adopted the regulation without any changes.

5. The estimated economic effect of the adopted regulation on the business, which it is to regulate, and on the public.

This regulation will not have an immediate or long-term adverse effect on business or the public. The proposed changes may well result in some minor cost savings to business and the public through streamlining the loan application process.

6. The estimated cost to the agency for enforcement of the adopted regulation.

There will be no additional cost to the agency for enforcement of this regulation.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

This regulation does not overlap or duplicate regulations of other state, federal, or local agencies.

8. If the regulation includes provisions which are more stringent than a federal regulation, which regulates the same activity, a summary of such provisions.

The regulation is no more stringent than what is established by federal law.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

This regulation does not increase fees.