

**ADOPTED REGULATION OF THE
BOARD FOR FINANCING WATER PROJECTS**

LCB File No. R124-24

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

AUTHORITY: §§ 1-30, NRS 349.982.

A REGULATION relating to water; making various changes to provisions relating to the program for grants of money to purveyors of water and eligible recipients to pay for certain costs associated with certain water systems, water conservation, connecting to municipal water systems and connecting to community sewage disposal systems; revising certain eligibility requirements to receive a grant from the program; revising provisions governing a letter of intent for an application for a grant from the program; revising provisions relating to an application for and the review and approval of a grant from the program; revising provisions relating to a resolution adopted by the Board for Financing Water Projects upon approval of a grant from the program; revising provisions relating to the issuance of certain bonds to finance the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems for the program; revising requirements that a recipient of a grant provide certain information to the Division of Environmental Protection of the State Department of Conservation and Natural Resources; revising certain provisions relating to certain credit granted to a recipient of a grant from the program; repealing certain provisions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law: (1) establishes a program to provide grants of money to purveyors of water and eligible recipients to pay for certain costs related to water conservation and capital improvements to certain water systems from the Fund for Grants for Water Conservation, Capital Improvements to Certain Water Systems and Improvements to Certain Sewage Disposal Systems; and (2) requires the Board for Financing Water Projects to administer the program and adopt regulations necessary for that purpose. (NRS 349.981, 349.982)

Sections 2-7 of this regulation define certain terms related to the program. **Section 11** of this regulation makes a conforming change to apply those definitions to existing provisions relating to the program and **sections 8-10** of this regulation. **Sections 12 and 13** of this regulation revise existing definitions of “program” and “requirements for public water systems,” respectively, as they relate to the program.

Existing regulations set forth eligibility requirements to receive a grant from the program, including requiring an applicant for a grant to submit a letter of intent to the Board, and set forth what must be included in the letter. (NAC 349.475) **Section 14** of this regulation: (1) revises the

eligibility requirements for a purveyor of water, eligible recipient or governing body to receive a grant from the program; (2) revises what must be included in a letter of intent; (3) requires that the letter of intent be submitted to the Division of Environmental Protection of the State Department of Conservation and Natural Resources instead of the Board; (4) removes the requirement that nine copies of the letter of intent be submitted to the Division; and (5) requires the Division to review the letter of intent and notify the applicant whether the letter is approved as to content and form.

Existing regulations set forth the process to apply for a grant from the program, including what must be included in and how to submit an application to the Board. (NAC 349.495, 349.500) **Sections 15 and 16** of this regulation revise what must be included in an application for a grant.

Existing regulations provide for the review of an application for a grant to determine the financial feasibility of the proposed improvement, the ability of the applicant to provide for the continued operation and maintenance of the system and whether charges for water from the system, if any, are sufficient to pay for certain expenses related to the system. (NAC 349.505) **Section 17** of this regulation: (1) requires the Division to review an application to ensure all required information is submitted and that the applicant has demonstrated viability; and (2) revises the information the Division must review in determining if a charge for water from the system is sufficient to pay for expenses related to the system. **Section 8** sets forth certain capabilities an applicant must demonstrate to be deemed viable.

Existing regulations require the Division to: (1) review an application for completeness within 20 working days after receipt of the application; (2) notify the applicant of any deficiencies within 30 working days after receipt of the application, instruct the applicant on resolving any deficiencies and allow an applicant 45 working days to submit any documents to satisfy the deficiencies; (3) recommend that the Board deny any application that fails to comply with the instructions provided to the applicant; and (4) prepare a report to the Board concerning the improvement proposed in the application. Existing regulations also set forth what information must be included in the report of the Division to the Board. (NAC 349.510) **Section 18** of this regulation: (1) removes the deadlines for the Division to review an application and notify an applicant that the application is deficient and the deadline for an applicant to submit any documents to satisfy any application deficiencies; and (2) instead requires the Division to promptly notify an applicant of deficiencies in the application. **Section 18** also revises the information that must be included in the Division's report to the Board.

Existing regulations prohibit the Board from approving an application for a grant before receiving certain information. (NAC 349.515) **Section 19** of this regulation revises the information that must be received by the Board before approving an application.

Existing regulations require the Board adopt a resolution when providing a grant and set forth what must be included in the resolution. (NAC 349.535) Existing law requires the Board to develop and use a scale to determine the amount of a grant to certain recipients that are water systems. (NRS 349.983) **Section 22** of this regulation revises what must be included in the resolution adopted by the Board, including an agreement that an applicant: (1) establish and maintain a capital replacement reserve account; and (2) prepare and submit a fiscal sustainability plan. **Section 22** also revises certain terms for providing a grant and the factors the Board will consider in developing the scale to determine the amount of a grant. **Sections 9 and 10** set forth the requirements for a capital replacement reserve account and a fiscal sustainability plan, respectively.

Existing regulations authorize the Division to request that the Office of the State Treasurer issue general obligation bonds in an amount sufficient to fund a grant upon receipt of a resolution from the Board. (NAC 349.540) **Section 23** of this regulation authorizes the Division to make such a request upon the enactment of legislation approving the issuance of such bonds.

Existing regulations require a recipient of a grant under the program to pay to the Division an administrative fee of \$1,000. Existing regulations also require the recipient of a grant and the Director of the Department, if all conditions of the grant have been met, to execute a funding agreement which must be for a term of not more than 5 years. (NAC 349.549) **Section 24** of this regulation prohibits the administrative fee from being included as a cost eligible for payment pursuant to the grant. **Section 24** additionally decreases from 5 years to 3 years the maximum term of such an agreement. Finally, **Section 24** requires that a funding agreement contain any terms and conditions set forth in the resolution adopted by the Board.

Existing regulations require the recipient of a grant under the program to periodically submit requests for money pursuant to the grant and to provide the Division with certain proof that disbursements of money were made in an appropriate manner. (NAC 349.564) **Section 27** of this regulation requires the recipient of a grant to submit quarterly requests for money and expands the proof required to include certain written documentation from a financial institution.

Existing regulations authorize the Division to give recipients of a grant from the program credit toward the amount of money the recipient is required to provide for a capital improvement and sets forth the basis for such credit. (NAC 349.569) **Section 28** of this regulation revises the basis on which such credit may be given.

Sections 19, 21, 24-26 and 29 of this regulation make revisions to expand the application of provisions relating to the program to include projects, as well as improvements, that are authorized to receive grants under the program.

Section 30 of this regulation repeals certain definitions and certain provisions relating to a letter of intent and public meetings related to the approval of an application for a grant.

Section 1. Chapter 349 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this regulation.

Sec. 2. *“Capital replacement reserve account” means the account established and maintained by a purveyor of water, eligible recipient or governing body as required by the terms of a grant provided by the Board pursuant to NAC 349.535.*

Sec. 3. *“Division” means the Division of Environmental Protection of the Department.*

Sec. 4. *“Governing body” has the meaning ascribed to it in NRS 278.015.*

Sec. 5. *“Project” means an activity undertaken by a purveyor of water, eligible recipient or governing body for which the purveyor of water, eligible recipient or governing body may receive a grant of money from the program.*

Sec. 6. *“Water resource plan” means a water resource plan developed pursuant to NRS 278.0228.*

Sec. 7. *“Water system” means a public water system that is a community water system or nontransient water system.*

Sec. 8. *For the purposes of NAC 349.430 to 349.574, inclusive, and sections 2 to 10, inclusive, of this regulation, an applicant for a grant will be deemed viable if the applicant demonstrates:*

1. The financial capability to sustain the operation of a water system, sewage disposal system or other system, which includes, without limitation:

(a) The ability to pay all costs related to the maintenance and operation of the water system, sewage disposal system or other system and any debt service, depreciation and capital expenses of the water system, sewage disposal system or other system;

(b) The ability to hold any cash reserves required for the maintenance and operation of the water system, sewage disposal system or other system; and

(c) The establishment of a capital replacement reserve account in accordance with section 9 of this regulation;

2. The managerial capability to sustain the operation of the water system, sewage disposal system or other system, which includes, without limitation:

(a) The authority to manage and maintain the water system, sewage disposal system or other system;

(b) The employment of qualified staff to maintain the water system, sewage disposal system or other system; and

(c) The ability to work with governmental agencies, regulatory bodies, trade and industry organizations and the persons served by the water system, sewage disposal system or other system; and

3. The technical capability to sustain the operation of the water system, sewage disposal system or other system, which includes, without limitation:

(a) The employment of personnel with the technical knowledge and licensure necessary to operate the water system, sewage disposal system or other system;

(b) The ability to obtain an adequate and reliable source of water, if necessary, to provide the quantity and quality of water required for the water system, sewage disposal system or other system; and

(c) The ability to establish and maintain the infrastructure necessary to meet the needs of the water system, sewage disposal system or other system, if applicable.

Sec. 9. *The capital replacement reserve account required under the terms for providing the grant as set forth in NAC 349.535:*

1. Must be:

(a) Maintained by the grantee to replace the capital assets of the water system, sewage disposal system or other system for the entire lifetime of the water system, sewage disposal system or other system; and

(b) Funded not less than annually based upon the depreciation of short-lived assets of the water system, sewage disposal system or other system that are held for not more than 15 years, using a straight-line method of depreciation; and

2. Must not be used by the grantee to pay for the operation, maintenance or debt service requirements of the water system, sewage disposal system or other system.

Sec. 10. 1. *The fiscal sustainability plan required under the terms for providing the grant as set forth in NAC 349.535, must be prepared by the grantee and submitted to the Division for review before the grantee requests the final disbursement of the grant money under the funding agreement required by NAC 349.549. The fiscal sustainability plan must include, without limitation:*

(a) An evaluation of all capital assets of the water system, sewage disposal system or other system and the current condition of the capital assets of the water system, sewage disposal system or other system;

(b) A list of all critical capital assets of the water system, sewage disposal system or other system;

(c) The projected cost of repairing or rehabilitating the capital assets of the water system, sewage disposal system or other system on a regular basis; and

(d) An evaluation of the water and energy efficiency of the water system, sewage disposal system or other system.

2. A grantee must agree to review the fiscal sustainability plan every 5 years for the lifetime of the water system, sewage disposal system or other system.

Sec. 11. NAC 349.430 is hereby amended to read as follows:

349.430 As used in NAC 349.430 to 349.574, inclusive, *and sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 349.432 to ~~349.469,~~ *349.467*, inclusive, *and sections 2 to 7, inclusive, of this regulation*, have the meanings ascribed to them in those sections.

Sec. 12. NAC 349.464 is hereby amended to read as follows:

349.464 “Program” means the program established ~~[pursuant to]~~ **by** NRS 349.981 to provide grants of money to purveyors of water and eligible recipients to pay for costs of improvements and ~~[for costs associated with:~~

- ~~—1.—Connecting to a municipal water system; or~~
- ~~—2.—Abandoning an individual sewage disposal system and connecting the property formerly served by the abandoned individual sewage disposal system to a community sewage disposal system.]~~ **projects authorized pursuant to NRS 349.981.**

Sec. 13. NAC 349.467 is hereby amended to read as follows:

349.467 “Requirements for public water systems” means the requirements imposed:

1. By the ~~[State Board of Health]~~ **Division** pursuant to NRS 445A.800 to 445A.955, inclusive; or
2. Pursuant to the Safe Drinking Water Act, 42 U.S.C. §§ 300f et seq.

Sec. 14. NAC 349.475 is hereby amended to read as follows:

349.475 1. The Board will provide a grant to a purveyor of water ~~[or an eligible recipient]~~ only if:

- (a) The ~~[grant will assist:~~
 - ~~—(1)—The]~~ purveyor of water ~~[in]~~ **meets the requirements of NRS 349.983;**
 - (b) The purveyor of water is** constructing a capital improvement to the ~~[community water system or nontransient]~~ **publicly owned** water system that will directly enable the purveyor of water to comply with the requirements for public water systems; ~~[or~~
 - ~~—(2)—The eligible recipient in carrying out an improvement set forth in paragraph (b), (c), (d) or (e) of subsection 1 of NRS 349.981;~~

~~(b)~~ (c) The purveyor of water ~~[or eligible recipient]~~ is unable to finance from its own resources the proposed improvement ~~[or costs]~~ associated with connecting to a municipal water system or community sewage disposal system;

~~(e)~~ (d) The purveyor of water is currently included on the priority list for the Account for the Revolving Fund; and

~~(d)~~ (e) Water meters or other approved devices which will measure water delivered to each water user are installed and used in any ~~[community water system or nontransient]~~ water system for which an application for a grant is made, unless the Board determines that water meters or such other devices are not required to ensure effective monitoring and conservation of water in that ~~[community water system or nontransient]~~ water system.

2. *The Board will provide a grant to an eligible recipient only if the eligible recipient:*

(a) Is carrying out an improvement or project described in NRS 349.981;

(b) Was in existence on January 1, 1995; and

(c) Is unable to finance from its own resources the improvement or project.

3. *The Board will provide a grant to a governing body that is an eligible recipient only if:*

(a) The governing body was in existence on January 1, 1995;

(b) The governing body is unable to finance from its own resources the proposed water resource plan; and

(c) Funding the development of the water resource plan is an eligible use of proceeds from bonds issued pursuant to NRS 349.986.

4. To apply for a grant, a purveyor of water, ~~[or]~~ eligible recipient *or governing body* must file with the ~~[Board]~~ *Division* a letter of intent. The letter *of intent* must include:

(a) The *legal* name, *mailing* address, *electronic mail address, if any*, and telephone number of the applicant.

(b) The date on which the service was first provided by the ~~community water system, nontransient~~ water system, sewage disposal system or other system for which the application for a grant was made. If the exact date is not known, the month and year must be provided.

(c) The title or name ~~of the proposed improvement or project~~, the location and a brief description of the proposed improvement ~~or project, as applicable~~, including maps ~~or~~ and preliminary plans.

(d) The number of persons or other entities served ~~and the assessed value of the property within the area that is served~~ by the ~~community water system, nontransient~~ water system, sewage disposal system or other system for which the application for a grant was made.

(e) ~~A preliminary~~ *An* estimate of the cost of the proposed improvement ~~or costs associated with connecting to a municipal water system or community sewage disposal system, including,~~ *or project prepared by a person licensed as a professional engineer pursuant to chapter 625 of NRS. The estimate must include*, without limitation, the cost of construction, engineering, *materials, permitting, construction* contingencies and any additional costs necessary for financing the improvement ~~or project, as applicable~~.

(f) A description of future improvements *or projects* planned by the applicant ~~within the next 5 years~~, if any, that are not part of the proposed improvement *or project* for which the application for a grant is made.

(g) ~~A brief~~ *If the proposed improvement or project is required to bring a water system, sewage disposal system or other system into compliance with any State or federal requirements, a* description of how the proposed improvement *or project* will ~~assist the~~

~~purveyor of water, in complying with the requirements for public water systems or the eligible recipient in carrying out the purpose of the proposed improvement.]~~ *bring the system into compliance.*

(h) Documentation ~~[concerning]~~ *demonstrating* the inability of the applicant to finance the proposed improvement or ~~[costs associated with connecting to a municipal water system or community sewage disposal system,]~~ *project*, including, but not limited to:

(1) *Audited financial statements for the 3 years immediately preceding the date on which the letter of intent was filed pursuant to NAC 349.475;*

(2) Letters from local lending institutions;

~~[(2)]~~ (3) Letters from financial advisers, accountants or fiscal agents, if applicable;

~~[(3)]~~ (4) *A copy of any budget for the current fiscal year and upcoming fiscal year, if applicable, that is required to be submitted to the Department of Taxation or the Public Utilities Commission of Nevada pursuant to statute;*

(5) *The rate charged to the users of the water system, sewage disposal system or other system for which the application for a grant was made, as of the date on which the letter of intent was filed;*

(6) *Any requirement of the applicant to set aside cash reserves to pay for the debt service of or complete capital improvements financed with previously issued debt;*

(7) *The amount of money available for the improvement or project, other than the money to be derived from the program;*

(8) Copies of any applications for funding the proposed improvement or ~~[costs]~~ *project* filed by the applicant and, if the application is for a loan, a copy of any documentation indicating

that the loan was approved or denied or the likelihood that the loan will be approved, including, without limitation, such an application and documentation concerning a loan from:

(I) The Account for the Revolving Fund ~~[(I)]~~ *created by NRS 445A.255;*

(II) The ~~[(II)]~~ *Account to Finance the Construction of Treatment Works and the Implementation of Pollution Control Projects created by NRS 445A.120;* or

(III) Any other governmental agency that provides financial assistance for improvements *or projects* and with which the applicant has applied for a loan; and

~~[(4)]~~ (9) A statement justifying the inability of the applicant to finance the proposed improvement or ~~[(costs)]~~ *project.*

(i) ~~[(A brief demonstration that the applicant will be viable upon completion of the proposed improvement which includes, without limitation, audited financial statements for the 3 years immediately preceding the date that the letter of intent is filed with the Board and a recently approved budget.)]~~

~~[(j)]~~ If applicable, a statement that the plan of water conservation adopted pursuant to NRS 540.131 will be filed with the Water Planning Section of the Division of Water Resources of the Department before receipt of the grant.

~~[(k)]~~ (j) Any additional information required by the Board.

~~[(3)]~~ 5. A letter of intent must be ~~[(directed)]~~ *submitted* to the ~~[(Board at either)]~~ *Division:*

(a) ~~[(The address specified in the application for a grant provided by the Division of Environmental Protection of the Department to the applicant;)]~~ *Electronically, through the Nevada Infrastructure Financial System at the Internet address <https://ndepifs.ndep.nv.gov>;* or

(b) ~~[The address otherwise provided by the Division of Environmental Protection of the Department to the applicant for that purpose.~~

~~—4.— An applicant shall provide nine copies of the letter of intent to the Division of Environmental Protection of the Department.] *By any other means authorized by the Division.*~~

6. The Division shall review a letter of intent submitted pursuant to this section to determine whether the letter of intent complies with the requirements of subsection 4 and notify the applicant whether the letter is approved as to content and form.

Sec. 15. NAC 349.495 is hereby amended to read as follows:

349.495 ~~[1.]~~ If a letter of intent for a proposed improvement or ~~[proposed costs is approved,]~~ *project is approved by the Division pursuant to NAC 349.475,* an applicant must submit ~~[an original and eight copies of]~~ an application to the Board ~~[-~~

~~—2.— An application submitted pursuant to subsection 1 must be:~~

~~—(a) In the form provided by the Division of Environmental Protection of the Department; and~~

~~—(b) Addressed to the Board as provided in subsection 3 of NAC 349.475.] :~~

1. Electronically, through the Nevada Infrastructure Financial System at the Internet address <https://ndepifs.ndep.nv.gov>; or

2. By any other means authorized by the Division.

Sec. 16. NAC 349.500 is hereby amended to read as follows:

349.500 1. Except as otherwise provided in subsections 2 and 3, ~~[the]~~ *an* application *submitted pursuant to NAC 349.495* must include the following items and information:

(a) *A copy of the letter of intent filed pursuant to NAC 349.475.*

(b) A preliminary engineering report for the construction, operation and maintenance of the proposed improvement ~~[-, including:~~

- ~~—(1) The expected costs and benefits of the project;~~
- ~~—(2) Plans for the development of the facilities of the applicant; and~~
- ~~—(3) The economic justification for and expected feasibility of the project;~~

→ ~~as~~ *or project* prepared by a person licensed as a professional engineer pursuant to chapter 625 of NRS.

~~{(b) A complete and legible legal description of the entire area of service for the proposed improvement, including a}~~ *The report must be formatted in compliance with Bulletin 1780-2 of the Rural Utilities Service of the United States Department of Agriculture issued on April 4, 2013.*

(c) Any map of the service area of the proposed improvement or project as may be required by the Division, including, without limitation:

(1) A map showing the layout of the proposed improvement or project and the location and number of persons served by the proposed improvement or project in relation to maps of the United States Public Lands Survey, assessor's maps, or aerial or other similar maps showing sections and townships ~~;~~

~~—(e)}~~ *; and*

(2) A complete and legible copy of the legal description of the property that will be occupied by the proposed improvement ~~{}~~ or project, including the assessor's plot maps on which the proposed improvement or project is identified.

(d) Proof of ownership, rights-of-way, easements or agreements, showing that the applicant holds or is able to acquire all lands, other than public lands, interests therein and water rights necessary for the construction of the proposed improvement ~~{}~~ or project. Copies of deeds to

lands to be occupied, records of surveys, easements, agreements or permits to appropriate water may be used as evidence of ownership.

(e) A report concerning the amount of water required to satisfy the needs of the proposed improvement ~~[]~~ *or project*, including:

- (1) The source and amounts of supply;
- (2) The rights to the water;
- (3) The quality of the water going into the proposed improvement ~~[]~~ *or project*;
- (4) The quality of treated water flowing out of the proposed improvement ~~[]~~ *or project*;

and

(5) A schedule indicating the volume of water required each month from the proposed improvement *or project* to meet the needs of the customers of the ~~[community water system or nontransient]~~ water system.

(f) A report concerning the implementation of the plan of water conservation adopted by the applicant pursuant to NRS 540.131, including:

- (1) A copy of the plan;
- (2) The most recent schedule established by the applicant for carrying out the plan; and
- (3) An analysis of the effectiveness of the plan.

(g) A complete and itemized list of the total estimated cost of the proposed improvement ~~[]~~ *or project*, including an estimate for construction costs, contingencies, engineering fees, administrative fees, legal fees and financing fees ~~[]~~, *prepared by a person licensed as a professional engineer pursuant to chapter 625 of NRS.*

(h) An estimate of the capital costs required for the installation of water meters on all service connections to the ~~[community water system or nontransient]~~ water system, including an analysis of the feasibility of installing the water meters.

(i) Information which demonstrates that the proposed improvement *or project* complies with applicable local regulations governing the use of land and water and any other applicable regulations and ordinances.

(j) A list of the permits required to carry out the proposed improvement ~~[.]~~ *or project*, with the anticipated dates and conditions for approval of those permits.

(k) *A summary of public participation in the development of the proposed improvement or project, including, without limitation, copies of minutes of any board meetings, public workshops, media events or press releases.*

(l) The estimated cost of operation and maintenance for the proposed improvement ~~[.]~~ ~~—(l)—~~ *or project.*

(m) The amount of money available for the proposed improvement *or project*, other than the money to be derived from the program, including terms of repayment if short-term or long-term financing is contemplated as a source of funding.

~~[(m)—A plan for the construction of any related improvements during the next 5 years.]~~

(n) Copies of the current documents prepared by or on behalf of the applicant pursuant to NRS 350.013, which depict the effect of the proposed improvement *or project* on the financial capacity of the applicant.

(o) Data and information deemed necessary by the Division ~~[of Environmental Protection of the Department]~~ or by the financial advisers or other consultants of the Division.

(p) Any additional information, as determined by the Division, to demonstrate to the Division that the applicant will be viable pursuant to section 8 of this regulation upon completion of the proposed improvement or project.

2. The Board may waive any of the requirements of subsection 1 upon written request of the applicant.

3. An applicant is not required to include an item and information required by subsection 1 if the item or information is not applicable to the type of improvement *or project* proposed in the application.

Sec. 17. NAC 349.505 is hereby amended to read as follows:

349.505 Upon receipt of an application, the Division ~~[of Environmental Protection of the Department]~~ shall:

1. *Review the application and any supporting materials to determine if the applicant has:*

(a) Submitted all the information required by NAC 349.500 in the application; and

(b) Demonstrated that the applicant is viable pursuant to section 8 of this regulation.

2. If necessary, forward all data and information contained in the application to any financial adviser, attorney and other person retained by the Division to determine the financial feasibility of the proposed improvement ~~[-~~

~~—2.]~~ *or project.*

3. If applicable, evaluate the ability of the applicant to provide for:

(a) The continuing replacement of components of the water system that are functionally obsolete or worn out;

(b) Current and anticipated debt service; and

(c) Current and future expenses of operation and maintenance.

~~[3.]~~ 4. If applicable, evaluate the charge for water that customers of the ~~[community water system or nontransient]~~ water system are paying and determine if the charge is sufficient to satisfy *all fixed and variable expenses of the water system, including, without limitation, expenses* related to:

(a) The operation and maintenance of the ~~[community water system or nontransient]~~ *current and future* water system; ~~[and]~~

(b) *The current and anticipated debt service of the applicant;*

(c) Periodically replacing *capital asset* components of the ~~[community water system or nontransient]~~ water system that are functionally obsolete or worn out ~~[~~
~~—4.] ; and~~

(d) *Any other fixed or variable expenses of the water system, including, without limitation, employee salaries and benefits, materials, chemicals, utilities, testing and sampling, permits, licenses, fees, contracts, subcontracts and any expenses necessary to maintain the water system for the health and safety of the public and the environment.*

5. If applicable, determine whether any exceptional circumstances exist in the area served by the ~~[community water system or nontransient water system.]~~ *applicant.*

Sec. 18. NAC 349.510 is hereby amended to read as follows:

349.510 1. ~~[Within 20 working days after receipt of an application, the Division of Environmental Protection of the Department shall review the application and determine if all information required by the Board has been provided.~~

~~—2.]~~ If, *after reviewing an application pursuant to NAC 349.505,* the Division ~~[of Environmental Protection of the Department]~~ determines that the application is ~~[incomplete,] :~~

(a) *Incomplete*, the Division ~~[of Environmental Protection of the Department]~~ shall ~~[, within 30 working days after the receipt of the application,]~~ *promptly* notify the applicant of the deficiencies and provide the applicant with instructions for ~~[satisfying]~~ *resolving* those deficiencies. ~~[The applicant must comply with those instructions within 45 working days after the receipt of the instructions, except that, upon written request by the applicant and for good cause, the Division of Environmental Protection of the Department may once extend the period for compliance by the applicant.]~~ If the applicant submits any additional information ~~[concerning the application within the appropriate period,]~~ *to resolve any deficiencies*, the Division ~~[of Environmental Protection of the Department]~~ shall ~~[, within 30 working days after receipt of that information,]~~ determine whether the application, *with the additional information*, is complete. If the applicant does not complete the application because the applicant failed to comply with the instructions provided to the applicant by the Division ~~[of Environmental Protection of the Department]~~ or failed to submit any additional information required by the Division, ~~[of Environmental Protection of the Department within the appropriate period,]~~ the Division ~~[of Environmental Protection of the Department]~~ shall recommend that the Board deny the application.

~~[3.—Within 30 working days after the Division of Environmental Protection of the Department determines that the application is complete,]~~

(b) *Complete*, the Division ~~[of Environmental Protection of the Department and the Bureau or the Water Planning Section of the Division of Water Resources of the Department, as appropriate given the type of improvement proposed in the application,]~~ shall *promptly forward a copy of the application to the Bureau of Safe Drinking Water, the Bureau of Water Pollution Control of the Division or the Division of Water Resources of the Department, as*

appropriate, who will review the application and feasibility reports to determine if the proposed improvement *or project* complies with:

~~[(a)]~~ (1) The requirements for public water systems if the applicant is a purveyor of water; or

~~[(b)]~~ (2) The applicable federal, state and local requirements for the *water system, sewage disposal system or other* system for which the application for a grant was made if the applicant is an eligible recipient ~~[-]~~; *or*

(3) *The applicable requirements of a governing body for a water resource plan.*

~~[4.]~~ 2. The Division ~~[of Environmental Protection of the Department]~~ shall prepare a report to the Board concerning the proposed improvement or ~~[costs within 60 working days after receipt of the completed application.]~~ *project*. The Division ~~[of Environmental Protection of the Department]~~ shall ensure that:

(a) ~~[H]~~ *The Division* receives information concerning the review of the application *conducted pursuant to paragraph (b) of subsection 1* by the Bureau ~~[or]~~ *of Safe Drinking Water*, the *Bureau of Water* ~~[Planning Section of]~~ *Pollution Control of the Division or* the Division of Water Resources of the Department, as applicable; and

(b) The information received pursuant to paragraph (a) is incorporated in the report prepared by the Division ~~[of Environmental Protection of the Department]~~.

~~—5.]~~ 3. The report to the Board prepared by the Division ~~[of Environmental Protection of the Department]~~ *pursuant to subsection 2* must contain:

(a) ~~[The]~~ *Information relating to the* application ~~[-]~~, *including, without limitation, the name and location of the proposed improvement or project, any maps of the proposed improvement or project, a description of the need for the proposed improvement or project, the population to be served by the proposed improvement or project, a construction timeline for*

and detailed cost of the proposed improvement or project and any conservation efforts of and alternatives to the proposed improvement or project;

(b) A summary of the economic justification for and financial feasibility of the proposed improvement ~~;~~ *or project;*

(c) The status of the funding available to the applicant for the proposed improvement or ~~costs; and~~ *project;*

(d) *A summary of any public participation in the development of the proposed improvement or project;*

(e) *The status of funding available from the Fund; and*

(f) Evaluations by the Division ~~[of Environmental Protection of the Department]~~ concerning:

(1) Whether the applicant will be viable *pursuant to section 8 of this regulation* upon completion of the proposed improvement ~~;~~ *or project;*

(2) If applicable, the effectiveness of the applicant's efforts to conserve water and of the plan of water conservation adopted by the applicant pursuant to NRS 540.131;

(3) ~~[The]~~ *If applicable, the* need for and the feasibility of installing water meters on all service connections to the ~~[community water system or nontransient]~~ water system; and

(4) The information that results from the evaluations and determinations conducted pursuant to subsections ~~[3 and]~~ *4 and 5* of NAC 349.505.

Sec. 19. NAC 349.515 is hereby amended to read as follows:

349.515 ~~[1.—Except as otherwise provided in subsections 2 and 3, an application must not be approved by the Board until:~~

~~—(a) Copies of any permits necessary for compliance with any requirements for planning and zoning, including any necessary variances or special use permits, are received by the Board; or~~

~~—(b) Each agency issuing a permit specified in paragraph (a) has given written authorization to proceed with the proposed improvement and a copy of the authorization is received by the Board.~~

~~—2. The Board may waive the requirements of subsection 1 if it has received information from its counsel or any other reliable source that the proposed improvement will receive or has received all permits required by any governmental agency which are necessary to proceed with the construction, improvement, rehabilitation or redevelopment of the proposed improvement.~~

~~—3. The Board may, before it receives any permit required pursuant to subsection 1 that requires the submission of a detailed engineering design, approve an application if there are no foreseeable conditions threatening the feasibility of the proposed improvement.~~

~~—4.]~~ The Board will not approve an application until ~~[it]~~ *the Board* determines *, if applicable to the proposed improvement or project*, that the applicant owns sufficient water rights to carry out the proposed improvement *or project* or *that* there are water rights otherwise available and committed to the proposed improvement ~~[]~~ *or project, as applicable*.

Sec. 20. NAC 349.520 is hereby amended to read as follows:

349.520 1. If the Board determines not to approve an application, it will prepare findings and conclusions concerning its determination and adopt a resolution stating the reasons for the disapproval.

2. The Board will give the applicant and the Division ~~[of Environmental Protection of the Department]~~ notice of its action.

Sec. 21. NAC 349.530 is hereby amended to read as follows:

349.530 1. Except as otherwise provided in subsection 2, the Board will review the completed application and determine whether, based on the records and documents submitted to the Board concerning the proposed improvement or ~~costs:~~ *project*:

(a) The proposed improvement *or project* is economically justified and financially feasible ;
~~;~~

(b) The proposed improvement *or project* complies with the provisions of NRS 349.980 to 349.987, inclusive ; ~~;~~

(c) The plan for development of the proposed improvement *or project* is satisfactory ; ~~;~~

(d) The applicant is able to obtain the financing required to complete the proposed improvement ~~;~~ *or project*;

(e) ~~The~~ *If applicable, the* applicant has taken sufficient and reasonable efforts to determine whether the proposed improvement *or project* conflicts with any regional master plan of any local, state or federal governing authority, and those efforts have not revealed such a conflict ~~;~~ ;
and

(f) ~~The~~ *If applicable, the* proposed improvement *or project* will not use or waste excessive quantities of water.

2. If the Board determines pursuant to paragraph (a) of subsection 1 that the proposed improvement *or project* is not economically justified and financially feasible, the Board will, based on the records and documents submitted to the Board concerning the proposed improvement ~~;~~ *or project*, determine whether the ~~construction of the~~ proposed improvement *or project* is in the interest of the State and brings the ~~purveyor of water into compliance with the requirements for public water systems or brings the eligible recipient~~ *applicant* into compliance with any applicable federal, state or local laws with which the ~~eligible recipient~~

applicant is not in compliance. In making its determination, the Board will consider, if applicable:

- (a) Whether there are any communities located near the ~~community water system or nontransient~~ water system that offer similar living conditions with potable water;
- (b) Whether the applicant has taken sufficient and reasonable efforts to discover an alternate source of potable water for the ~~community water system or nontransient~~ water system; and
- (c) Whether any other useable source of potable water for the ~~community water system or nontransient~~ water system has been discovered.

3. The Board will approve or disapprove the proposed improvement or ~~costs~~ *project* taking into consideration the determinations made pursuant to subsections 1 and 2. If the Board approves the proposed improvement or ~~costs, it~~ *project, the Board* will take into consideration the amount of money in the Fund and determine whether to provide a grant for the proposed improvement or ~~costs.~~ *project*. The Board may give precedence to improvements *and projects* which provide maximum benefits to the State.

Sec. 22. NAC 349.535 is hereby amended to read as follows:

349.535 1. If the Board determines to provide a grant, ~~it~~ *the Board* will adopt a resolution which must include:

(a) A statement of the approval of the Board that sets forth its findings of fact concerning its determinations made pursuant to NAC 349.530;

(b) The ~~application; and~~ *report to the Board prepared by the Division pursuant to NAC 349.510; and*

(c) The terms for providing the grant to the applicant ~~;~~ *, which must include, without limitation:*

(1) That the award of grant money is contingent upon the availability of money based upon the issuance of general obligation bonds by the State pursuant to NAC 349.540. The Board is under no obligation to make payments on any grant awarded in the event the Board and Division determine there is insufficient money available from the issuance of such general obligation bonds by the State;

(2) The assurance of the applicant that the relevant water rates will continue to meet or exceed the required revenue to satisfy the costs of operations, maintenance, debt service and capital replacement reserves of the current and future needs of the water system, sewage disposal system or other system;

(3) The agreement of the applicant to establish and maintain a capital replacement reserve account that meets the requirements of section 9 of this regulation;

(4) The agreement of the applicant to prepare and submit to the Division a fiscal sustainability plan that meets the requirements of section 10 of this regulation;

(5) The agreement of the applicant to utilize the money provided by the grant within 3 years after the issuance of the resolution;

(6) The assurance of the applicant that the applicant has obtained all funding necessary to complete the improvement or project; and

(7) If the applicant is a purveyor of water, the assurance that water meters are installed and operated or will be installed and operating before the execution of a funding agreement pursuant to NAC 349.549.

2. To determine the amount of a grant to a purveyor of water, the Board will, pursuant to NRS 349.983, develop and use a scale which the Board may periodically revise. The factors the Board will consider in developing the scale include, without limitation:

(a) Whether the improvement for which the grant is requested is included on the priority list for the Account for the Revolving Fund for the current year;

(b) If applicable, the rank of the improvement for which the grant is requested in relation to other projects on the priority list for the Account for the Revolving Fund for the current year;

(c) The median household income for the community or area that is served by the ~~community water system or nontransient~~ water system for which the grant is requested as compared to the median household income in this State;

(d) The number of persons served by the ~~community water system or nontransient~~ water system for which the grant is requested;

(e) ~~The amount of reduction in the leakage of water, if any, in the community water system or nontransient water system for which the grant is requested;~~ *If the applicant has obtained the maximum amount of money available for the improvement or project, other than the money to be derived from the program;*

(f) The effectiveness of any water conservation in the area that is served by the ~~community water system or nontransient~~ water system for which the grant is requested; ~~and~~

(g) The monthly charge for water that residential customers of the ~~community water system or nontransient~~ water system for which the grant is requested are paying for the month in which the application for a grant is submitted ~~[-]~~;

(h) Whether the applicant has demonstrated financial viability by preparing and submitting a fiscal sustainability plan pursuant to section 10 of this regulation;

(i) Whether the compliance operations manuals, maintenance manuals, cross-connection control plans and emergency response plans of the applicant are current; and

(j) Whether the applicant has a current source water protection plan developed in accordance with the source water assessment and protection program, as defined in NAC 445A.8337.

3. The Board will send a copy of the resolution to the Division ~~[of Environmental Protection of the Department.]~~ *upon adoption.*

4. ~~[Within 10 days after]~~ *Upon* receipt of the resolution of the Board, the Division shall:

(a) Notify the applicant and the Director of the decision of the Board.

(b) ~~[Send]~~ *Request that* the applicant : ~~[an inducement letter which:]~~

~~(1) [States the intention of the Director to issue the grant to be paid as other claims against the State are paid if the improvement meets local, state and federal requirements;~~

~~—— (2) States the amount of the grant;~~

~~—— (3) States that if the grant is to be made from the proceeds of bonds, it will be conditioned upon the successful issuance of the bonds;~~

~~—— (4) Directs the applicant to submit]~~ *Submit* any supporting documentation required by the Division; and

~~[(5) Directs the applicant to comply]~~

(2) Comply with any conditions imposed upon the grant and to enter into the funding agreement required pursuant to NAC 349.549 within 6 months after the date the Board approves the grant or such other date as the Board specifies.

Sec. 23. NAC 349.540 is hereby amended to read as follows:

349.540 Upon receipt of a resolution of the Board approving the improvement or costs ~~[]~~ *or upon the enactment of legislation approving the issuance of general obligation bonds, if any,*

the Division ~~{of Environmental Protection of the Department}~~ may request *that* the Office of the State Treasurer ~~{to}~~ issue general obligation bonds in an amount sufficient to fund the grant.

Sec. 24. NAC 349.549 is hereby amended to read as follows:

349.549 1. The recipient of a grant under the program shall pay to the Division ~~{of Environmental Protection of the Department}~~ an administrative fee of \$1,000 ~~{.}~~, *which must not be included as a cost eligible for payment pursuant to the grant.* The money must be used for the purposes set forth in subsection 4 of NRS 349.982.

2. The recipient of a grant under the program and the Director, *or his or her designee,* shall, if all conditions of the grant have been met, execute a funding agreement that complies with the requirements of this section.

3. The funding agreement must:

(a) Be for a term of not more than ~~{5}~~ 3 years.

(b) Set forth the maximum amount disburseable pursuant to the grant, the percentage of eligible costs that will be paid and the amount of the minimum contribution to be paid by the recipient.

(c) Distinguish costs that are eligible and ineligible for payment pursuant to the grant, and set forth formulas for sharing the cost of components of the improvement *or project* that are partially eligible for payment pursuant to the grant.

(d) Describe procedures for the disbursement of the grant.

(e) Set forth any state requirements regarding:

(1) Compliance with the laws of this State;

(2) Access by the State to any accounts and books of the recipient that relate to the improvement;

- (3) Access to the site of the improvement *or project* for inspection by state personnel;
 - (4) Indemnification of the State;
 - (5) The acknowledgment of the amount contributed by the State pursuant to the grant;
 - (6) The submission of financial reports and reports concerning the progress of the improvement ~~or~~ *project*;
 - (7) The maintenance of records;
 - (8) The provision of addresses for notification and other communication;
 - (9) The approval of plans and specifications;
 - (10) The submission of proof of the receipt of any required permits;
 - (11) The notification of the State concerning any difficulties in the construction or funding of the improvement *or project* that could adversely affect the improvement ~~or~~ *project*;
 - (12) The notification of the State concerning any claims made against the recipient of the grant, the engineer or contractor for the improvement ~~or~~ *project*, or any other person associated with the improvement ~~or~~ *project*; and
 - (13) The submission, review and approval of contract change orders.
- (f) Set forth provisions concerning:
- (1) Requirements for the methods of procurement and applicability of the provisions of chapter 332 of NRS;
 - (2) Any default or termination;
 - (3) The rights of the State if the agreement is terminated;
 - (4) The right of the State to commence legal proceedings;
 - (5) The right of the State to require audits at the expense of the recipient;
 - (6) The amendment of the agreement;

(7) Requirements for notification of the parties to the agreement; ~~and~~

(8) The release of any liability arising from a default ~~and~~; *and*

(9) Any terms and conditions set forth in the resolution adopted by the Board pursuant to NAC 349.535.

(g) Set forth any other contractual provisions relevant to the grant or *the* improvement ~~and~~ *or project.*

Sec. 25. NAC 349.554 is hereby amended to read as follows:

349.554 The recipient of a grant under the program:

1. Shall, before:

(a) Bids for the improvement *or project* are advertised, submit to the Division ~~of Environmental Protection of the Department~~ the engineering design, plans and specifications for the improvement ~~and~~ *or project.*

(b) Bids for the improvement *or project* are opened, submit to the Division the bidding schedules and item descriptions for measurement and payment.

(c) Construction of the improvement *or project* is begun, submit to the Division:

(1) Proof of the receipt of all necessary permits ~~and~~, *including, without limitation, all permits necessary for construction and applicable requirements for planning and zoning.*

(2) Documentation that any procedures for purchasing and contracting required by the State are being followed.

(3) The agendas for any conferences held before bidding and construction.

(4) Schedules for procurement and construction.

(5) Proof that the funding required to be contributed by the recipient of the grant has been committed to the improvement ~~and~~ *or project.*

(6) Any other documents that the Division deems necessary to verify compliance with the goals of the program.

2. Shall not allow the commencement of any construction relating to the improvement *or project* until the Division provides the recipient of the grant with a written notice to proceed with the improvement ~~or~~ *project*. The Division shall, upon its approval of the items received pursuant to subsection 1, provide the recipient with that notice.

Sec. 26. NAC 349.559 is hereby amended to read as follows:

349.559 The recipient of a grant under the program shall:

1. During the construction of the improvement ~~or~~ *project*, provide the Division ~~of Environmental Protection of the Department~~ with such documents as the Division deems necessary to determine compliance with the funding agreement ~~or~~ *executed pursuant to NAC 349.549*.

2. Submit to the Division monthly reports concerning the progress of the construction of the improvement ~~or~~ *project*. Each report must include:

(a) A brief description of any work performed on the improvement *or project* after the date of the report submitted by the recipient pursuant to this subsection for the immediately preceding month;

(b) A discussion of any problems encountered that may cause a deviation from the schedule of construction for the improvement *or project* or an adjustment to the budget for the improvement ~~or~~ *project*; and

(c) Copies of any work directives and change orders issued to the contractor during the period specified in paragraph (a), regardless of whether the contractor approved the directives or orders.

3. Submit to the Division quarterly financial reports concerning the construction of the improvement ~~[]~~ *or project*. Each report must:

(a) Include a current budget for the completion of the improvement *or project* that accurately reflects:

- (1) Any costs incurred up to the date of the report;
- (2) The anticipated monthly costs to complete the improvement ~~[]~~ *or project*; and
- (3) The status of available funding; and

(b) Be accompanied by copies of any change orders affecting the scope or cost of any components of the improvement *or project* that are eligible for payment pursuant to the grant.

4. Provide the Division with current schedules for the construction of the improvement *or project* and such other current information as the Division deems necessary to ensure that:

(a) The components of the improvement *or project* that are eligible for payment pursuant to the grant will be completed; and

(b) The health needs of the community will be met.

Sec. 27. NAC 349.564 is hereby amended to read as follows:

349.564 1. The recipient of a grant under the program shall:

(a) Submit ~~[periodic]~~ *quarterly* requests for the disbursement of money pursuant to the grant on forms provided by the Division . ~~[of Environmental Protection of the Department.]~~

(b) Provide the Division with:

(1) Copies of all contracts related to the improvement ~~[]~~ *or project*, including contracts for construction, procurement and the provision of professional services. Any invoice submitted by the recipient of the grant 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.

(2) Proof that any prior disbursements of money pursuant to the grant have been distributed in an appropriate manner and that any disbursements made pursuant to a present request for the disbursement of money pursuant to the grant will be distributed in an appropriate manner. The proof must consist of:

(I) Copies of ~~the front of~~ cancelled checks issued by the recipient of the grant; ~~or~~

(II) *Written documentation from a financial institution of wire transfers or other electronic fund transfers initialed by the recipient of the grant; or*

(III) A signed letter from a vendor stating that the vendor has been paid in full for an invoice that is to be reimbursed by a disbursement made pursuant to the present request for the disbursement.

2. The disbursement of any money pursuant to a grant under the program must comply with the funding agreement ~~is~~ *executed pursuant to NAC 349.549*. Each payment must be approved based on the actual costs to date.

Sec. 28. NAC 349.569 is hereby amended to read as follows:

349.569 1. The Division ~~of Environmental Protection of the Department~~ may give a recipient of a grant pursuant to the program credit toward the amount of money the recipient is required to provide for the capital improvement pursuant to subsection 3 of NRS 349.983 if the recipient contributes to the capital improvement:

(a) All of the money the recipient has available for that purpose; and

(b) Material, labor, equipment or any other contribution approved by the Division other than money.

↪ The credit must not exceed the unpaid balance of the amount the recipient is required to provide pursuant to that subsection.

2. To obtain credit pursuant to subsection 1:

(a) A recipient of a grant pursuant to the program must submit to the Division:

(1) Documentation for each contribution made to the capital improvement by the recipient for material, labor, equipment or other contribution approved by the Division;

(2) A postconstruction audit of each contribution made to the capital improvement by the recipient; and

(3) Any other information the Division deems appropriate.

(b) All forms, rates and documentation submitted by the recipient of the grant must be approved by the Division.

3. If the Division approves the credit, the amount of the credit must be determined by the Division based on:

(a) The prevailing wage for similar classifications of work;

(b) The rates ~~paid by the Department of Transportation for the rental of equipment;~~
contracted with a contractor or supplier pursuant the provisions of chapter 338 of NRS, if any; or

(c) The actual costs sustained by the recipient of the grant.

Sec. 29. NAC 349.574 is hereby amended to read as follows:

349.574 1. After the recipient of a grant pursuant to the program has completed the improvement ~~or project,~~ *or project,* the recipient shall submit to the Division ~~of Environmental Protection of the Department]~~ for its approval:

(a) A final engineering report that includes a certificate of completion executed by an engineer indicating that:

(1) The improvement *or project* has been completed in accordance with the provisions of the funding agreement;

(2) The improvement *or project* as constructed has been tested and satisfies the objectives for which it was designed and performs the functions for which it was intended; and

(3) Based on the results of the test specified in subparagraph (2), the quality of materials and workmanship are consistent with the plans and specifications approved for the improvement ~~it~~ *or project*;

(b) Drawings of the improvement *or project* as constructed that depict any material changes from the initial plans for the improvement ~~it~~ *or project*;

(c) The dates the improvement *or project* was tested, accepted and placed into service;

(d) A statement of the final costs for the improvement ~~it~~ *or project*; and

(e) If required by the Division, proof that the improvement *or project* performs the tasks for which it was designed.

2. The recipient of the grant may submit its final request for disbursement of the grant only after the Division has approved the final engineering report submitted pursuant to subsection 1.

3. If the final engineering report, certificate of completion and statement of final costs submitted pursuant to subsection 1 are approved by the Division:

(a) The Division shall release the recipient of the grant from any liability arising pursuant to the funding agreement ~~it~~ *executed pursuant to NAC 349.549*; and

(b) The recipient of the grant shall discharge the Division and the State of Nevada from any claims or demands arising pursuant to the funding agreement.

4. Upon completion of the requirements of this section and payment of the final request submitted pursuant to subsection 2, any undisbursed amount of the sum authorized for the grant will be made available for other grants pursuant to the program.

Sec. 30. NAC 349.445, 349.463, 349.469, 349.480, 349.485, 349.490 and 349.525 are hereby repealed.

TEXT OF REPEALED SECTIONS

349.445 “Community water system” defined. “Community water system” has the meaning ascribed to it in NRS 349.980.

349.463 “Nontransient water system” defined. “Nontransient water system” has the meaning ascribed to it in NRS 349.980.

349.469 “Viable” defined. “Viable” means:

1. For a purveyor of water, having the financial, managerial and technical ability to sustain over a long term the operation of a community water system or nontransient water system and to remain in compliance with the requirements for public water systems; and

2. For eligible recipients, having the financial, managerial and technical ability to remain in compliance with applicable federal, state and local requirements for the system for which the application for the grant was made.

349.480 Procedure following receipt of letter of intent.

1. Upon receipt of a letter of intent, the Division of Environmental Protection of the Department shall:

(a) Record the date of receipt;

(b) Maintain a file containing all documents and information pertaining to the financing of the proposed improvement or costs; and

(c) Promptly forward a copy of the letter of intent to the Bureau or the Water Planning Section of the Division of Water Resources of the Department, as appropriate given the type of improvement or costs proposed in the letter of intent.

2. The Division of Environmental Protection of the Department and the entity which received a copy of the letter of intent pursuant to paragraph (c) of subsection 1 shall review the letter of intent and forward their comments to the Board within 30 days after receipt of the letter of intent.

3. The Board will consider a letter of intent forwarded from the Division of Environmental Protection of the Department and will, in a motion or resolution adopted by the Board, determine whether:

(a) If the applicant is a purveyor of water other than the Lincoln County Water District, the community water system or nontransient water system was in existence on January 1, 1995, and is currently publicly owned;

(b) If the applicant is a conservation district, irrigation district, conservancy district or general improvement district, the applicant was in existence on January 1, 1995;

(c) The proposed improvements will be publicly owned;

(d) The applicant is eligible for the program pursuant to NRS 349.981 or 349.983; and

(e) The proposed improvement is likely to be economically justified and financially feasible pursuant to the provisions of NAC 349.430 to 349.574, inclusive.

349.485 Approval of letter of intent.

1. The Board will approve the letter of intent in a motion or resolution adopted by the Board if the Board:

(a) Makes the determinations required pursuant to subsection 3 of NAC 349.480; and

(b) Finds that the proposed improvement or costs qualify for a grant pursuant to NRS 349.981 or 349.983.

2. Upon approval of a letter of intent by the Board, the applicant must file an application for the proposed improvement or costs within 1 year after the date of approval or by a date specified by the Board, except that:

(a) Upon the request of the applicant and based upon the occurrence of circumstances beyond the control of the applicant, the Division of Environmental Protection of the Department may once authorize the applicant to file the application at a later date, which must not be later than 18 months after the date of approval or 6 months after the date originally specified by the Board; or

(b) The Board may, upon good cause shown, extend the period for the applicant to file the application.

3. If the Board has approved a letter of intent, it may request that the Division of Environmental Protection or the Water Planning Section of the Division of Water Resources of the Department, as appropriate and within the limits of their available resources, assist the applicant with preparing an application. The Board may also request the Division of Environmental Protection of the Department to issue a letter evidencing an intent to proceed with the program.

4. The approval of a letter of intent by the Board does not guarantee or ensure that any proposed improvement or costs will be provided a grant.

349.490 Disapproval of letter of intent; finality of decision of Board; reapplication.

1. If the Board does not make the affirmative determinations required by subsection 3 of NAC 349.480 or finds that the letter of intent does not meet the requirements of NAC 349.475, the Board will disapprove the letter of intent, by motion or resolution, and promptly notify the Division of Environmental Protection of the Department and the applicant of its decision, listing the reasons for disapproval.

2. The decision of the Board is final.

3. If a letter of intent is disapproved by the Board, the applicant may reapply not less than 6 months after the date of disapproval or at such time as is permitted by the Board, whichever is earlier.

349.525 Public meeting on proposed improvement or costs; correction of deficiencies in application. Before approving an application, the Board or its designated representative:

1. Will hold a public meeting on the proposed improvement or costs and provide reasonable notice to the members of the public who may be affected by the proposed improvement or costs.

2. May return the application to the applicant for the correction of any deficiencies.