

**PROPOSED REGULATION OF THE
STATE BOARD OF HEALTH**

LCB File No. R067-98

May 31, 1998

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

AUTHORITY: §§2-74, NRS 445A.270; §§75-97, NRS 445A.270 and 445A.295;
§§98-126, NRS 445A.270.

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 126, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 126, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 3 to 49, inclusive, of this regulation have the meanings ascribed to them in those sections.*

Sec. 3. *“Account for set-aside programs” has the meaning ascribed to it in NRS 445A.205.*

Sec. 4. *“Account for the revolving fund” has the meaning ascribed to it in NRS 445A.203.*

Sec. 5. *“Acute health concern” means a concern regarding human health that occurs when exposure to a contaminant causes an immediate risk to human health and causes symptoms to occur quickly.*

Sec. 6. *“Administrator” has the meaning ascribed to it in NRS 445A.207.*

Sec. 7. *“Applicant” means a public water system that is seeking to obtain a loan from the account for the revolving fund.*

Sec. 8. *“Board” has the meaning ascribed to it in NRS 445A.210.*

Sec. 9. *“Board for financing water projects” has the meaning ascribed to it in NRS 349.936.*

Sec. 10. *“Capability” means:*

- 1. The technical, managerial and financial capacity of a public water system; and*
- 2. The ability to satisfy the requirements of chapter 445A of NRS and this chapter.*

Sec. 11. *“Capitalization grant” has the same meaning as a federal grant as defined in NRS 445A.225.*

Sec. 12. *“Categorical exclusion” means an exemption from being required to comply with the provisions of sections 82 to 97, inclusive, of this regulation, 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 sections 83 and 89 to 97, inclusive, of this regulation.*

Sec. 13. *“Chronic health concern” means a concern regarding human health that occurs when:*

- 1. Short-term exposure to a contaminant does not cause an immediate risk to human health but may result in adverse, long-term health symptoms; or*
- 2. Long-term exposure may cause adverse health symptoms to develop over a long period.*

Sec. 14. *“Community water system” means a public water system that:*

- 1. Serves at least 15 service connections which are used by year-round residents; or*

2. *Regularly serves at least 25 year-round residents.*

Sec. 15. *“Completion of the water project” means the time at which:*

1. *An applicant has satisfied all requirements of a construction contract for a water project;*

2. *The applicant has placed the water project in service; and*

3. *The final disbursement of loan funds, including, without limitation, the release of retention funds has been made to the applicant.*

Sec. 16. *“Construction” has the meaning ascribed to it in NRS 445A.215.*

Sec. 17. *“Distribution system” has the meaning ascribed to it in NAC 445A.65845.*

Sec. 18. *“Division” has the meaning ascribed to it in NRS 445A.220.*

Sec. 19. *“Emergency situation” occurs when:*

1. *Water at a public water system is contaminated or is likely to be contaminated to such an extent that it causes an imminent danger to public health and the contamination could not have been prevented by the operator of the system; or*

2. *There is a reduction of a source of potable drinking water for an extended period.*

Sec. 20. *“Environmental assessment” means a document 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. *Provides sufficient evidence and analysis to justify the action the division takes pursuant to subsection 2.*

Sec. 21. *“Environmental impact statement” means a report that the division requires an applicant to prepare for a proposed water project if the division determines that the project will have a significant impact on the quality of the human environment or will generate controversy concerning the natural environment. The statement must include a detailed and formal evaluation of the favorable and adverse environmental and social impacts of the proposed water project and describe any alternative action that may be less environmentally disruptive.*

Sec. 22. *“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.*

Sec. 23. *“EPA” means the United States Environmental Protection Agency.*

Sec. 24. *“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. 25. *“Intended use plan” means a report that the division prepares which describes how this state will use the money it receives from the federal capitalization grant and the money it uses to provide the required matching funds to achieve the objectives of the Safe Drinking Water Act and further the goal of protecting public health.*

Sec. 26. *“Long-term loan” is a loan for which the term for repayment exceeds 5 years, but does not exceed 20 years or the life of the water project, whichever is shorter, unless the term is extended by the division pursuant to section 50 of this regulation.*

Sec. 27. *“Maintenance” means the preservation of the functional integrity and efficiency of the equipment and structures of a water project and includes, without limitation, any necessary preventive maintenance, corrective maintenance and replacement of equipment or structures.*

Sec. 28. *“Median household income” means the most recent estimated average household income level as determined from data from the United States Census Bureau or as documented by an applicant for the service area of the public water system.*

Sec. 29. *“Mitigation” includes, without limitation:*

- 1. Avoiding an environmental impact by not taking certain action;*
- 2. Minimizing an environmental impact by limiting the degree or magnitude of an action and its implementation;*
- 3. Rectifying an environmental impact by repairing, rehabilitating or restoring the part of the environment affected;*
- 4. Reducing or eliminating an environmental impact over time by preservation and maintenance during the life of the water project; or*
- 5. Compensating for an environmental impact by replacing or providing substitute resources or environments.*

Sec. 30. *“Noncommunity water system” means a public water system that is not a community water system.*

Sec. 31. *“Nonprofit” means that a public water system is legally organized to return no profit to its owners or members and has a federal identification number for tax-exempt status.*

Sec. 32. *“Nontransient, noncommunity water system” means a public water system that is not a community water system which regularly serves at least 25 of the same persons over a period of not less than 6 months.*

Sec. 33. *“Operation” means the management and control of the individual processes and equipment that comprise a public water system. The term includes, without limitation, financial management, the management of personnel and records, laboratory control, process control, safety and planning for emergency operations and efforts to comply with any relevant regulations.*

Sec. 34. *“Operation and maintenance” means activities that are required to ensure the dependable and economical functioning of a water system.*

Sec. 35. *“Operator” has the meaning ascribed to it in NRS 445A.830.*

Sec. 36. *“Priority list” means a list that the division prepares annually which sets forth the order in which the division will make financial assistance from the account for the revolving fund available to potential water projects.*

Sec. 37. *“Process of environmental review” means the development and evaluation of environmental information concerning a water project that enables the division, pursuant to sections 75 to 97, inclusive, of this regulation, to make a determination whether to:*

- 1. Grant a categorical exclusion;*
- 2. Make a finding of no significant impact; or*
- 3. Require the applicant to submit an environmental impact statement.*

Sec. 38. *“Professional engineer” has the meaning ascribed to it in NRS 625.060.*

Sec. 39. *“Public water system” has the meaning ascribed to it in NRS 445A.235.*

Sec. 40. *“Recipient” means an applicant who has executed a contract for a loan with the division to receive financial assistance in the form of a loan from the account for the revolving fund.*

Sec. 41. *“Replacement” means the obtaining and installation of any equipment, accessories or appurtenances during the life of a water project that are necessary to maintain the capacity and performance which the water project was designed to achieve. The term does not include major rehabilitation, repair or replacement of any capital or fixed assets of a water project.*

Sec. 42. *“Safe Drinking Water Act” has the meaning ascribed to it in NRS 445A.240.*

Sec. 43. *“Service connection” has the meaning ascribed to it in NAC 445A.66375.*

Sec. 44. *“Short-term loan” means a loan for which the term of repayment does not exceed 5 years.*

Sec. 45. *“Significant noncompliance” occurs when, on two or more occasions during any period of 12 consecutive months, a public water system fails to:*

- 1. Report the results of monitoring for;*
- 2. Take a sample for; or*
- 3. Exceed the maximum contaminant levels of,*

any of the primary drinking water standards set forth in NAC 445A.453.

Sec. 46. *“State clearinghouse” means the process for review by the state as established pursuant to the governor’s executive order concerning intergovernmental review of federal programs of August 15, 1989.*

Sec. 47. *“Transient water system” means a noncommunity water system that serves fewer than 25 of the same persons over a 6-month period.*

Sec. 48. *“User charge” means:*

- 1. Any charge levied on the users of a water project; or*
- 2. Any portion of the ad valorem taxes that are paid by a user for his proportionate share of the cost of operation and maintenance of a water project, including, without limitation, replacement of the water project.*

Sec. 49. *“Water project” has the meaning ascribed to it in NAC 445A.66585 and includes, without limitation, any project for which the debt obligations of a public water system may be bought or refinanced pursuant to 42 U.S.C. § 300j-12(f)(2).*

Sec. 50. *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.*

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 sections 58 to 62, inclusive, of this regulation.

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 Safe Drinking Water Act;

(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, 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;*
- (b) Construction management;*
- (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 household is less than 80 percent of the average 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. 51. *An applicant is eligible to refinance a water project using money from the account for the revolving fund if the current debt obligation satisfies the requirements of 42 U.S.C. § 300j-12(f)(2).*

Sec. 52. *1. An applicant is eligible to receive a short-term loan from the account for the revolving fund for costs concerning:*

(a) *Planning and engineering to:*

(1) *Determine the causes of a problem of a public water system;*

(2) *Define potential solutions to a problem of a public water system; and*

(3) *Develop the information for the letter of intent required pursuant to section 68 of this regulation;*

(b) *Conducting preliminary or reconnaissance engineering;*

(c) *Preparing water project plans to satisfy the requirements of NAC 445A.450 to 445A.6731, inclusive;*

(d) *Preparing environmental information for the process of environmental review pursuant to sections 75 through 97, inclusive, of this regulation;*

(e) *Preparing the information for the application required pursuant to section 71 of this regulation; or*

(f) Any other planning activity approved by the division that is related to a water project.

2. At the time an applicant applies for a long-term loan, he may request that any short-term loan for which the applicant is liable be incorporated into the long-term loan.

Sec. 53. *The division shall not provide financial assistance for the account from 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 monitoring 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; or

10. Refinancing of a private system.

Sec. 54. *1. An applicant or a recipient who has reason to believe that an action taken by an employee of the division pursuant to sections 2 to 126, inclusive, 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, except that the informal discussion must be held no later than 30 days after the date on which the bureau 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 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, except that the informal conference must be held no later than 60 days after the date on which the bureau received the written request.

3. An applicant or recipient may not appeal a determination of the bureau resulting from the informal conference. Such a determination is the final remedy available to the aggrieved applicant or recipient.

4. As used in this section, "bureau" means the bureau of health protection services of the health division of the department of human resources, or its successor.

Sec. 55. *1. The division shall, as necessary, provide for a public participation process to provide interested or affected persons a reasonable opportunity to submit to the division*

orally or in writing data, views or arguments upon proposed water projects or proposed actions or determinations of the division.

2. Unless a hearing is required, the division will hold a workshop to satisfy the requirements of subsection 1.

3. The division shall provide notice of the time and place set for the workshop not less than 15 days before the workshop, unless a longer period is required. The division may provide such notice by:

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

(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.

4. The notice must include:

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

(b) A description of any proposed action or determination of the division;

(c) Reasons for any preliminary determination by the division;

(d) The time that the division will allow for public comments; and

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

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

6. *In any notice that it provides and at the workshop, the division shall clearly indicate what actions, if any, may result from the workshop.*

Sec. 56. *1. Pursuant to the requirements of 42 U.S.C. §§ 300j-12(g)(2) and 330j-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 section 55 of this regulation 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 sections 65, 66 and 67 of this regulation.

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. 57. *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.*

2. After receiving proposals for water projects and other requests for financial assistance 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 sections 58 to 62, inclusive, of this regulation; and*

- (c) Submit the priority list to the board for financing water projects.*

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

4. 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 estimate prepared by a professional engineer 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 section 63 of this regulation at any time.

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

8. *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. 58. 1. *At least annually, the division shall develop a statewide priority list of water projects from the solicitation process described in section 57 of this regulation. 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.*

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 division receives information concerning a water project that was not available at the time the list was developed;*

(b) *An applicant proposes a water project to correct an emergency situation pursuant to section 63 of this regulation; or*

(c) *It becomes necessary for the division to bypass a water project pursuant to section 64 of this regulation.*

Sec. 59. 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 sections 60, 61 and 62 of this regulation.*

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 is developed; and*
- (e) The existing population of the service area of each public water system at the time of application.*

Sec. 60. *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 rules governing the maximum contaminant levels of microbiological contaminants found in 40 C.F.R. § 141.63, 4 points;

(II) 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 rule governing the maximum contaminant levels of nitrate found in 40 C.F.R. § 141.62(b)(7)-(b)(9), 2 points;

(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:

(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 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(c), 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

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

(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.

(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 or 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 product of the initial rank number of a water project within a class of water projects and the ratio of the statewide 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 section 63 of this regulation.*

8. *The division may also provide financial assistance pursuant to section 52 of this regulation 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. 61. 1. *The priority of water projects determined by the division pursuant to sections 58 to 62, inclusive, of this regulation is subject to the approval of the board for financing water projects.*

2. *Except as otherwise provided in section 63 of this regulation, the division shall hold a public participation workshop pursuant to section 55 of this regulation 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.*

Sec. 62. 1. *After the division finalizes the priority list and at least 15 days before the meeting of the board for financing water projects, the division shall:*

(a) *Submit the priority list to the board for financing water projects for approval; and*
(b) *Provide a copy of the proposed final priority list to each person who submitted a preapplication to the division.*

2. *Any objection to the ranking of water projects on a proposed priority list must be filed with the division in writing not later than 7 days before the meeting of the board for financing water projects.*

3. *Objections to the proposed priority list that are not resolved by the division before the meeting of the board for financing water projects may be made orally at the meeting of the board for financing water projects.*

Sec. 63. 1. *In an emergency situation, an applicant requesting assistance from the account for the revolving fund may follow the application procedures set forth in sections 71 to 74, inclusive, of this regulation 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.*

Sec. 64. 1. *The division may bypass a water project on the priority list if it determines that the water project is not ready to proceed or the applicant for the project:*

(a) Withdraws the water project;

(b) Requests action to be deferred as allowed pursuant to subsection 2 of section 68 of this regulation; or

(c) Fails to file a letter of intent as required pursuant to sections 68 and 69 of this regulation.

2. *If the division determines that the water project is not ready to proceed, the division shall provide notice of its determination to the applicant. After receiving notice, the applicant must respond to the division within 30 days.*

3. *If the applicant files an objection in the response provided for in subsection 2 that cannot be resolved by the division, the division shall request that the matter be heard at the next meeting of the board for financing water projects for hearing and resolution. The division shall provide at least 15 days' notice of the meeting to the affected applicant.*

Sec. 65. *The priority list approved by the board for financing water projects will be incorporated into the intended use plan developed pursuant to sections 65, 67 and 67 of this regulation and submitted with other required information to the EPA in the application for the annual capitalization grant agreement or an amendment to a capitalization grant agreement for the account for the revolving fund.*

Sec. 66. *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:*

1. *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:*

(a) *Capitalization grants; and*

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

2. *How loan repayments will be made;*

3. *How interest earnings and bond proceeds will be handled;*
4. *The criteria and method used for the distribution of funds;*
5. *The financial status of the program;*
6. *The short- and long-term goals of the program;*
7. *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;*
8. *The state disadvantaged community program and the funds utilized for this type of assistance;*
9. *The method employed by the division to rank water projects on the priority list;*
10. *Priority lists for:*
 - (a) *Water projects that will receive funding in the first year after the grant award; and*
 - (b) *Water projects that are eligible for funding in future years;*
11. *Procedures for altering the status of water projects on the priority list, including, without limitation, the addition of water projects addressing emergency situations; and*
12. *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.*

Sec. 67. *1. The division shall conduct a public participation process to obtain public comment and review pursuant to section 55 of this regulation before finalizing its intended use plan.*

2. Copies of the final intended use plan containing the information set forth in section 66 of this regulation must be made available in the offices of the division throughout the state.

Sec. 68. *1. Not later than 15 days after the priority list is approved by the board for financing water projects pursuant to section 62 of this regulation, the division shall notify each applicant of the priority list of the ranking of water projects.*

2. Not later than 30 days after 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 section 64 of this regulation. The applicant's water project will remain on the priority list for consideration in the following year.

Sec. 69. *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) Any additional information required by the division; and

(l) 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 to the State Health Division, Bureau of Health Protection Services, 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. The applicant's letter of intent to proceed with the proposed water project serves as a request to the division to:

(a) Schedule the preapplication conference pursuant to section 70 of this regulation; and

(b) Initiate the process of environmental review pursuant to sections 75 to 97, inclusive, of this regulation.

Sec. 70. *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 Sections 75 to 97, inclusive, of this regulation.

Sec. 71. *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.*

2. An application for a short-term loan submitted pursuant to section 52 of this regulation shall 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 section 51 of this regulation shall 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 540.131 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) 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) 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) Any other information necessary for the division to understand how the applicant intends to repay the loan.

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

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

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

- (s) A report on the status of the process of environmental review for the project.*
 - (t) A list of any required permits and a schedule of when those permits will be obtained.*
 - (u) The financial history of the applicant, including, without limitation, annual financial statements for the preceding 3 years.*
 - (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) 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) 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) of subsection 3.

7. The forecasts of population that an applicant provides pursuant to paragraph (m) 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. 72. *1. Upon receipt of an application, the division shall evaluate:*

- (a) The application to determine whether the applicant submitted all the information required pursuant to section 71 of this regulation;*
- (b) The ability of the public water system to provide for:*
- (1) The continuing replacement of components of the public water system that are functionally obsolete or worn out;*
 - (2) Current and anticipated debt service; and*
 - (3) Current and future expenses of operation and maintenance;*
- (c) The capability of the public water system to remain in compliance with the Safe Drinking Water Act and NAC 445A.450 to 445A.6731, inclusive;*
- (d) Whether adequate collateral, if it was required, has been provided by the applicant to secure the loan;*
- (e) The sources that the applicant will draw on to repay the loan so that the division may determine whether the sources are of sufficient amount and certainty to repay fully the loan and provide for the upkeep of the public drinking water system; and*
- (f) Whether the water project is consistent with any comprehensive planning and zoning provisions applicable to the area, including, without limitation, management plans, development plans and county planning activities.*
- 2. If the applicant is a utility subject to the jurisdiction of the public utilities commission, an order by the public utilities commission authorizing a surcharge pursuant to NAC 704.600 for the water project is sufficient to satisfy the requirements of this section.*

Sec. 73. *1. An application is complete when the division determines that the applicant has supplied all the information required in this section and section 71 of this regulation.*

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 these regulations.*

Sec. 74. *If a water project will serve two or more public water systems, the applicant shall submit with the application an executed copy of any interagency agreement, contract or*

other legally binding instrument that is necessary for the financing, construction and operation of the proposed water project. This instrument must set forth the basis upon which costs are allocated, the formula by which costs are allocated and the manner in which the system of allocating costs will be administered.

Sec. 75. *1. The division shall initiate the process of environmental review after receiving a letter of intent from the applicant pursuant to sections 68 and 69 of this regulation.*

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

3. 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.

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. 76. *The division shall not require an applicant to complete and submit an environmental review pursuant to sections 75 to 97, inclusive, of this regulation if the applicant submits with his application a permit for construction issued by the public utilities commission pursuant to NRS 704.890.*

Sec. 77. *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 section 69 of this regulation 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 pursuant to section 82 of this regulation.

2. If the water project is determined by the division to be eligible for a categorical exclusion pursuant to sections 78 of this regulation, the division shall issue notice of its intent to grant a categorical exclusion pursuant to section 79 of this regulation.

Sec. 78. *1. To determine whether a water project is eligible for a categorical exclusion, the division shall review:*

(a) The information included in the letter of intent filed by the applicant pursuant to section 69 of this regulation; and

(b) The information presented during the preapplication conference held pursuant to section 70 of this regulation.

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 to not to be cost-effective or cause significant public controversy concerning the natural environment.

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

Sec. 79. *1. If the division determines that a water project is eligible for a categorical exclusion pursuant to section 78 of this regulation, 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) *The time that the division will allow for public comment; and*

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

3. *The division shall not consider comments that it receives more than 30 days after it has provided the notice in the manner set forth in subsection 2.*

Sec. 80. 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 section 79 of this regulation; and*

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

2. *The division shall review any comments that it receives pursuant to section 79 of this regulation 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 section 81 of this regulation.*

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

4. *If any issues or objections raised pursuant to the comments submitted to the division pursuant to section 79 of this regulation:*

(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 pursuant to section 82 of this regulation.

Sec. 81. *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 sections 79 and 80 of this regulation.

(b) Additional information is necessary, the division may require the applicant to file an environmental information document and follow any additional requirements of the process of environmental review set forth in sections 82 to 97, inclusive, of this regulation.

Sec. 82. *1. If the division determines that a water project is ineligible for a categorical exclusion, the applicant shall prepare an environmental information document for the water project. The applicant shall include the environmental information document with, or append it*

to, the application. The environmental information document may make reference to specific sections of the application in lieu of duplicating information found in the application.

2. The environmental information document must include, without limitation:

(a) A description of the proposed water project;

(b) The purpose of the proposed water project;

(c) Reasons why the proposed water project is needed;

(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 can not be avoided after the project is completed;

(g) 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) Any irreversible and irretrievable commitments of resources to the proposed water project;

(i) 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

(j) 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 (h).

3. The environmental information document 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.

Sec. 83. *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 section 55 of this regulation, 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 comments offered pursuant to the public participation process, the division shall issue:*

(a) A preliminary finding of no significant impact pursuant to sections 84 to 87, inclusive, of this regulation; or

(b) A notice of intent to prepare an environmental impact statement pursuant to sections 88 to 97, inclusive, of this regulation.

6. *An applicant may partition a proposed water project into two or more discrete components for the purposes of the environmental review pursuant to section 88 of this regulation.*

Sec. 84. *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 30 days after it has provided notice in the manner set forth in subsection 3.

Sec. 85. *1. The division shall issue a finding of no significant impact to an applicant if:*

(a) The division does not receive any significant comments pursuant to the notice it provides pursuant to section 84 of this regulation; and

(b) The water project is otherwise eligible for a finding of no significant impact.

2. The division shall review any comments that it receives pursuant to section 84 of this regulation and respond to any comments which it deems significant before the division completes the process of environmental review and makes its final determination of whether to issue a finding of no significant impact.

3. *After the division issues a finding of no significant impact, no further action is required by the division or the applicant concerning the environmental review.*

4. *If any issues or objections raised pursuant to the comments submitted to the division pursuant to section 84 of this regulation:*

(a) Are resolved, the division may issue a finding of no significant impact.

(b) Remain unresolved and the division determines that a water project is ineligible for a finding of no significant impact, the applicant shall prepare and submit an environmental impact statement pursuant to sections 89 through 97, inclusive, of this regulation.

5. *An applicant may partition a proposed water project into two or more discrete components for the purposes of the environmental review pursuant to section 88 of this regulation.*

Sec. 86. 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 of its intention not to rescind its finding of no significant impact pursuant to the procedures set forth in sections 84 to 87, inclusive, of this regulation.

(b) Additional information is necessary to supplement the original environmental information document, the division may require the applicant to prepare and submit and environmental impact statement pursuant to sections 89 to 97, inclusive, of this regulation.

Sec. 87. *1. After the division has issued a finding of no significant impact to an applicant pursuant to section 85 of this regulation, the division may execute a loan contract with the applicant.*

2. The division shall ensure that the applicant will carry out any mitigation measures that the division requires by conditioning the applicant's receipt of financial assistance upon the applicant's carrying out the mitigation measures.

Sec. 88. *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 sections 89 to 97, inclusive, of this regulation;

(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 sections 82 to 97, inclusive, of this regulation.

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;

(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 can not 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 will partition an applicant's water project by executing a loan contract with an applicant to fund only a portion of the 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 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 sections 84 to 87, inclusive, of this regulation.

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

Sec. 89. *The division shall require an applicant to prepare and submit an environmental impact statement if the division determines that:*

1. The applicant's proposed water project is not eligible for a categorical exclusion or a finding of no significant impact; and

2. The water project is known or expected to:

(a) Have a significant effect on the quality of the human environment, individually, cumulatively over time or in conjunction with other federal, state, local or private actions; or

(b) Affect, directly or indirectly, recognized:

(1) Cultural resources;

(2) Habitats of endangered or threatened species;

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

(I) Floodplains;

(II) Wetlands;

(III) Environmentally significant agricultural land;

(IV) Aquifer recharge zones;

(V) Scenic areas; or

(VI) Other resource areas.

Sec. 90. *1. After the division determines that it shall require an applicant to prepare and submit an environmental impact statement for a proposed water project, the division shall provide notice of its intent to require the applicant to prepare an environmental impact statement.*

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 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.

3. The notice issued pursuant to subsection 1 must include, without limitation:

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

(b) Reasons supporting the division's determination to require the applicant to prepare and submit an environmental impact statement for the proposed water project; and

(c) The address of the applicant so that interested persons can file comments or inquire about the time and location of any meetings which are scheduled to discuss alternatives to the proposed water project.

4. *As soon as possible after the division provides the notice required pursuant to subsection 1, the applicant shall convene a meeting of affected federal, state and local agencies, affected Indian tribes, the division and any other interested party to determine the scope of the environmental impact statement.*

5. *At the meeting that the applicant convenes pursuant to subsection 4, the applicant shall:*

(a) Determine the significant issues that the applicant will need to analyze in depth in the environmental impact statement;

(b) Identify the range of alternatives to his proposed water project that the applicant must consider;

(c) Identify any agencies that may have an interest in the environmental impact statement and the information that the applicant may need from each agency; and

(d) Discuss the method that the applicant will use to:

(1) Prepare the environmental impact statement; and

(2) Ensure public participation.

6. *As soon as possible after the meeting required pursuant to subsection 5, the applicant shall document as part of the environmental impact statement:*

(a) The issues concerning the proposed water project that were raised at the meeting;

(b) An evaluation of any viable methods of addressing the issues raised at the meeting;

(c) Any additional issues that are raised while evaluating the issues raised at the meeting and an evaluation of any viable methods of addressing these new issues; and

(d) Any issues raised at the meeting that the applicant decides are not relevant to his water project.

7. *The applicant shall prepare, or have prepared, a draft environmental impact statement for the water project. The applicant shall pay the costs of preparing the draft environmental impact statement.*

8. *If a federal agency is required by law to prepare an environmental impact statement, the division and the applicant are not required to pay the costs of preparing the environmental impact statement and shall cooperate with the federal agency in preparing the statement.*

Sec. 91. 1. *The division shall schedule and hold public workshops concerning an environmental impact statement pursuant to section 55 of this regulation, and division shall provide notice of each workshop not less than 30 days before the date of the workshop.*

2. *The division shall schedule not less than two public workshops concerning an environmental impact statement.*

3. *The division shall hold a public workshop only after alternatives to a proposed water project have been developed but before a draft of the environmental impact statement is done.*

4. *The division may institute any additional procedures for ensuring public participation as it determines are necessary.*

Sec. 92. 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 30 days after it has provided the notice in the manner set forth in subsection 3.*

Sec. 93. *1. If no significant comments are received by the division within the time prescribed in section 92 of this regulation, the division may issue its final determination that the process of environmental review is complete.*

2. The division shall:

- (a) Review all comments that it receives within the time prescribed in section 92 of this regulation;*
- (b) Respond to any of those comments which it deems significant; and*
- (c) Provide those responses to the applicant for incorporation into the final environmental impact statement.*

Sec. 94. *The division:*

- 1. Shall, upon the request of any person, provide that person with a copy of any version of the environmental impact statement or any supporting documents; and*
- 2. May charge a reasonable fee, not to exceed the cost of reproduction, for each copy.*

Sec. 95. *An applicant shall prepare or have prepared a final environmental impact statement after the time for public comment and public workshops concludes and after considering any comments received during the process for public participation. The final environmental impact statement must consist of:*

- 1. The draft environmental impact statement;*
- 2. Copies of all written comments and summaries of all oral comments received concerning the draft environmental impact statement;*
- 3. The names and addresses of all persons who commented on the draft environmental impact statement;*
- 4. Copies of any responses to comments provided by the division pursuant to section 93 of this regulation; and*
- 5. Any other information deemed appropriate by the division.*

Sec. 96. *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 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. 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 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 section 75 of this regulation.

Sec. 97. *1. If 5 years or more have passed since the division has issued its final determination 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 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 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. 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 30 days after it 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 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, the process of environmental review for the water project must comply with the procedure set forth in sections 89 to 97, inclusive, of this regulation.*

Sec. 98. *The division shall reject an application if the applicant fails to:*

1. *Submit a complete application pursuant to sections 71 and 72 of this regulation;*
2. *Provide documentary evidence that the applicant has access to dedicated sources of revenue that are sufficient, in the judgment of the division, to ensure repayment of the loan;*
3. *Provide adequate collateral for the loan;*
4. *Demonstrate the legal, technical, managerial, institutional and financial capability to provide adequately for the operation, maintenance and replacement of the system during the term of the loan;*
5. *Demonstrate the technical, financial and managerial capability required for continuous compliance with the Safe Drinking Water Act and NAC 445A.450 to 445A.6731, inclusive; and*
6. *Carry out any mitigating measures that the division has required.*

Sec. 99. *Upon determining that an application is complete, the division shall prepare a written report which includes:*

1. *An evaluation of the application;*
2. *The financial feasibility of the proposed water project;*
3. *The status of any funding available from the account for the revolving fund;*
4. *A review and analysis of the creditworthiness of the applicant;*

5. *An analysis of the level of risk for the loan;*
6. *An opinion regarding the technical, managerial and financial capability of the applicant;*
7. *An evaluation of the capability of the public water system to remain in compliance with the Safe Drinking Water Act, chapter 445A of NRS and this chapter; and*
8. *Any other information deemed necessary by the division.*

Sec. 100. *The division shall:*

1. *Review the completed application and any records and other documents submitted by the applicant concerning the water project to evaluate whether:*
 - (a) *The proposed water project is feasible from an engineering and legal standpoint, is economically justified and is financially feasible;*
 - (b) *There is adequate assurance that the applicant can repay the loan;*
 - (c) *The applicant has taken sufficient and reasonable efforts to determine whether the proposed water 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*
 - (d) *If revenue bonds are to be issued, the applicant has executed a legally binding statement not to undertake to commit the state and any other political subdivision or municipality, other than the applicant, to incur any pecuniary liability in connection with the repayment of the bonds.*
2. *Submit the report required pursuant to section 99 of this regulation to the board for financing water projects with a recommendation that the board:*
 - (a) *Approve the commitment of funds requested by the applicant;*

(b) Approve the commitment of funds requested by the applicant with conditions; or

(c) Deny the commitment of funds requested by the applicant.

Sec. 101. *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 section 100 of this regulation. 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. 102. *1. After receiving the notification required pursuant to section 101 of this regulation 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 (l) of subsection 3 of section 71 of this regulation;

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

(c) The water project will comply with all applicable federal and state requirements.

Sec. 103. 1. *The division shall not offer a loan contract to an applicant until:*

(a) The board for financing water projects has issued its approval of the water project to the applicant; and

(b) The applicant has 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 section 101 of this regulation, 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 section 101 of this regulation, prepare and transmit a loan contract to the applicant.*

Sec. 104. 1. *The applicant and the administrator may execute a loan contract only after any conditions to the commitment of financial assistance have been met.*

2. *The loan contract must be:*

(a) On a form provided by the division; and

(b) Executed by all parties before the commencement of construction of the water project.

Sec. 105. 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 recipient has complied with the provisions of subsection 1 to the satisfaction of the division.

Sec. 106. *During the construction of a water project, a recipient shall provide to the division:*

1. Such documentation as the division deems necessary to determine compliance with the loan contract; and

2. Monthly reports regarding the progress of the construction of the water project, each of which must:

- (a) Include a current budget for the completion of the water project which accurately reflects:*
- (1) Any costs incurred up to the date of the report;*
 - (2) The anticipated costs to complete the water project; and*
 - (3) The status of available funding;*
- (b) Identify each major change to any schedule for the water project and describe each reason for that change; and*
- (c) Be accompanied by copies of any change orders affecting the scope or cost of any components of the water project.*

Sec. 107. 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 canceled 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. 108. 1. *After a recipient has completed a water project, the recipient shall submit to the division for its approval:*

(a) *A final engineering report that describes the water project as it was constructed;*

(b) *Drawings of the water project as it was built which depict any material changes from the initial plans for the water project;*

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

(d) *A notice of completion of the water project; and*

(e) *A statement of the final costs for the water project.*

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

3. *Upon completion of the requirements of subsection 1 and payment of the final request submitted pursuant to subsection 2, any amount of the sum authorized for the loan that is not disbursed will be made available to other applicants who have requested financial assistance from the account for the revolving fund.*

Sec. 109. 1. *The accounting standards contained in “Governmental Auditing Standards, 1994 Revision” published by the General Accounting Office are hereby adopted by reference. A copy of this publication is available at a cost of \$5 from the Superintendent of Documents, United States Government Printing Office, 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.

2. A recipient shall maintain separate accounts for water projects in accordance with generally accepted governmental accounting standards, including those adopted by reference in subsection 1.

Sec. 110. 1. A recipient shall:

(a) Establish an official file for the water project, which must contain an adequate record of all significant actions relating to the water project;

(b) Establish accounts that accurately and adequately show all amounts of money:

(1) Received as financial assistance from the account for the revolving fund;

(2) Received and spent on the water project; and

(3) Received as income from the water project;

(c) Establish a system of accounting, which ensures that the total costs of the water project, including all direct and indirect costs, are recorded accurately;

(d) Establish and maintain such other accounts and records as are required by the division to comply with requirements for reporting established by the Federal Government; and

(e) Retain all records relating to the water project for at least 3 years after final repayment of financial assistance has been made or for any longer period required by the division.

2. Any records of a recipient relating to a water project must be made available at any reasonable time for inspection or copying by any authorized representative of the division.

Sec. 111. 1. Whenever an audit is required by federal law or by an agency of the Federal Government, or whenever the division determines that an audit is necessary to ensure

the integrity of the account for the revolving fund, the division may require that an audit be performed of financial records relating to a water project.

2. Any audit required pursuant to this section must be performed at the expense of the recipient by a certified public accountant who is independent of the recipient.

3. A report of the audit must be prepared by the auditor required pursuant to subsection 2 in the form prescribed by the division.

Sec. 112. *1. The recipient shall conduct value engineering if the total estimated cost of constructing the water project is more than \$10,000,000. Any recommendations derived from the value engineering must be carried out to the extent feasible.*

2. If the division determines that a water project is especially complex, the division shall require the recipient to submit the project for peer review.

3. As used in this section:

(a) "Peer review" means a cursory review of the work of the design engineer for a water project, conducted by a person with equal competence and expertise in that discipline who is retained by the recipient specifically to provide suggestions or comments which may enhance the performance of the water project or aid in the operation and maintenance of the water project; and

(b) "Value engineering" means a specialized technique for controlling costs which uses a systematic and creative approach to identify and focus on any unnecessary cost to reduce the cost of a water project without affecting the reliability or efficiency of the water project.

Sec. 113. *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;*

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. 114. 1. *If it becomes necessary for a recipient to impose a separate rate structure to repay a loan for a water project, the recipient may impose its system of user charges before the board for financing water projects takes action on a water project for which the division has submitted a recommendation pursuant to section 100 of this regulation.*

2. *If a recipient uses an existing rate structure for a public water system to repay a loan, the recipient shall provide the appropriate documentation to verify that the use of the existing rate structure will generate enough income to enable the recipient to repay the loan.*

Sec. 115. *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 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 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. 116. *A recipient shall comply with the provisions of the Davis-Bacon Act, 40 U.S.C. §§ 276a et seq., if they apply, the applicable provisions of chapter 338 of NRS and all other applicable state and federal labor laws.*

Sec. 117. *1. A recipient shall comply with the requirements of federal law concerning the participation of disadvantaged businesses.*

2. Each recipient shall attempt to comply with the fair share percentages established annually for disadvantaged businesses by the division and the EPA. A recipient not meeting these goals shall submit evidence of compliance with the affirmative steps identified in section 118 of this regulation.

3. A recipient shall submit with his request for approval to award a construction contract, a report of participation by disadvantaged businesses in the form prescribed by the division. If the low bidder on any construction contract does not meet the fair share requirements for

disadvantaged businesses, the recipient shall submit to the division evidence of compliance by the bidder with the affirmative steps identified in section 118 of this regulation.

4. A recipient shall submit to the division, in the form prescribed by the division, a report of participation by disadvantaged businesses following any quarter during which a procurement of \$10,000 or more is executed for the water project. As used in this subsection, “quarter” means a quarter in the federal fiscal year.

Sec. 118. *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. Using the services of the Nevada Commission on Economic Development and the Nevada Office of Small Business to locate disadvantaged businesses capable of performing the work to be subcontracted.*

Sec. 119. *1. A recipient shall notify the division in writing within 5 working days after the award of the prime construction contract for the water project.*

2. A recipient shall notify the division promptly in writing of:

(a) The beginning of construction of the water project;

- (b) Any substantial change in the scope of the water project and each executed change order;*
- (c) The date on which construction of the water project is anticipated to be completed;*
- (d) The cessation of all major construction work on the water project where the cessation of work is expected to or does continue for 30 days or more;*
- (e) Any circumstance or condition that is expected to or does delay the completion of construction for 90 days or more after the anticipated date of completion of construction of the water project;*
- (f) The completion of construction of the water project; and*
- (g) The beginning of the operation of the water project.*

Sec. 120. *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 must be conducted as they are deemed necessary by the division.*

Sec. 121. *Before a water project is 90 percent completed, a 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. 122. *No later than 90 days after the completion of a water project, the recipient shall supply the division with one set of drawings of the water project as it was built.*

Sec. 123. *1. After completion of the water project and before a recipient submits certification of a water project required pursuant to subsection 2, the recipient shall coordinate with the division a final inspection of the water project to ensure that the facilities of the water project are operating and capable of satisfying the applicable requirements for public health and water quality.*

2. Within a specified period agreed upon by the division after the completion of a water project, the recipient shall certify to the division that the water project meets all applicable performance standards. At the request of a recipient, the division may assist the recipient in developing applicable performance standards.

3. If the recipient is not able to provide the certification required pursuant to subsection 2 because the water project does not meet applicable performance standards:

(a) The recipient shall prepare a report of corrective action that provides:

(1) An analysis of the cause of the failure of the water project to meet performance standards; and

(2) An estimate of the nature, scope and cost of necessary corrective action.

(b) The division shall conduct follow-up inspections as necessary to determine whether the water project meets performance standards.

4. If the cost of corrective action exceeds the amount of money loaned to the recipient, the recipient shall only receive additional money to pay for the increased costs if the recipient applies to the board for financing water projects for the additional money.

5. *One year after the date specified in the notice of completion of the water project, the recipient shall report to the division concerning whether the water project:*

(a) Meets applicable performance standards; and

(b) Complies with all applicable design specifications and requirements for public health and water quality.

6. *As used in this section, “performance standards” means the criteria used to evaluate the compliance of a water project with:*

(a) The requirements contained in design specifications; and

(b) The applicable requirements of chapter 445A of NRS and this chapter.

Sec. 124. *A recipient:*

1. *Shall notify the division of any claims against the owner, the professional engineer, the contractor or any subcontractor arising from or related to the water project; and*

2. *Is responsible for the resolution of those claims.*

Sec. 125. 1. *A recipient shall not abandon, substantially discontinue the use of or dispose of a water project during its useful life without the prior written approval of the division.*

2. *As used in this section, “useful life” means the period during which a water project provides a service without becoming obsolete or inoperable.*

Sec. 126. 1. *To the extent that any of the provisions of sections 2 to 126, inclusive, 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 sections 2 through 126, inclusive, 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.