

LCB File No. R128-04

PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION

Petition 2004-23

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

AUTHORITY: NRS 445A.270

Section 1. New section as follows:

“Act” defined (NRS 445A.270) “Act” means the Safe Drinking Water Act.

Sec. 2. New section as follows:

“Commission” defined. (NRS 445A.270) “Commission” has the meaning ascribed to it in NRS 4445A.210.

Sec. 3. New section as follows:

“State Median Household Income” defined (NRS 445A.270) “State Median Household Income” has the meaning ascribed to it in the Intended Use Plan.

Sec. 4. NAC 445A.67516 is hereby deleted:

~~[NAC 445A.67516 “Board” defined. (NRS 445A.270) “Board” has the meaning ascribed to it in NRS 445A.210.]~~

Sec. 5. NAC 445A.67528 is hereby amended to read as follows:

NAC 445A.67528 “Environmental assessment” defined. (NRS 445A.270)

“Environmental assessment” means a document *prepared by the applicant* that:

~~[1. The division prepares or has prepared after it has reviewed and considered an environmental information document submitted by an applicant;]~~

~~[2.]~~ **1.** Provides the basis for the division to:

(a) Issue a finding of no significant impact; or

(b) Require the applicant to prepare and submit an environmental impact statement; and

~~[3.]~~ 2. Provides sufficient evidence and analysis to justify the action the division takes pursuant to subsection ~~[2]I~~.

3. *Facilitates preparation of an environmental impact statement if one is necessary.*

Sec. 6. NAC 445A.6753 is hereby amended to read as follows:

~~[NAC 445A.6753 “Environmental information document” defined. (NRS 445A.270) “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. 7. NAC 445A.67531 is hereby amended to read as follows:

NAC 445A.67531 “EPA” defined. (NRS 445A.270) “EPA” means the United States Environmental Protection Agency, *an independent agency of the U.S. Government.*

Sec. 8. NAC 445A.67536 is hereby amended to read as follows:

NAC 445A.67536 “Median household income” defined. (NRS 445A.270) “Median household income” means the most recent ~~[estimated average]~~ *median* 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 *or other method identified in the Intended Use Plan.*

Sec. 9. NAC 445A.6755 is hereby amended to read as follows:

NAC 445A.6755 “Safe Drinking Water Act” defined. (445A.270 NRS) “Safe Drinking Water Act” *In addition to* ~~[has]~~ the meaning ascribed to it in NRS 445A.240~~[.]~~, *the Safe Drinking Water Act definition also includes 42 USC 1452 (hereinafter referenced as section 300(j)).*

Sec. 10. NAC 445A.67559 is hereby amended to read as follows:

NAC 445A.67559 Procedure for review of actions taken by division. (NRS 445A.270)

1. An applicant or a recipient who has reason to believe that an action taken by an employee of the division pursuant to NAC 445A.6751 to 445A.67644, inclusive, is incorrect or based on inadequate knowledge may, within 10 business days after receiving notice of the action, request

an informal discussion with the employee responsible for the action and the immediate supervisor of the employee. The informal discussion must be scheduled for a date, place and time mutually agreed upon by the applicant or recipient and the ~~[bureau]~~ *division*, except that the informal discussion must be held no later than 30 days after the date on which the bureau received the request.

2. If the informal discussion does not resolve the problem, the applicant or the recipient may, within 10 business days after the date scheduled for the informal discussion, submit a written request to the ~~[bureau]~~ *division* for an informal conference. The informal conference must be scheduled for a date, place and time mutually agreed upon by the applicant or recipient and the bureau, 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.]~~ *Any dispute concerning the administration of the provisions NAC 445A.6751 to 445A.67644, inclusive that is not otherwise resolved must be referred to the administrator for decision. The decision of the administrator is subject to review by the director. As used in this section, administrator means the administrator of the division.*

~~[4. As used in this section, "bureau" means the bureau of health protection services of the division, or its successor.]~~

Sec. 11. NAC 445.67561 is hereby amended to read as follows:

NAC 445A.67561 Eligibility for short-term or long-term loan for certain types and costs of water projects; limitations; extension of long-term loan. (NRS 445A.270)

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 NAC 445A.67567 to 445A.67571, inclusive.

3. Any change made by an applicant to the design of his proposed water project which the applicant makes after the division has determined that the water project is eligible for a loan, but before the board for financing water projects has committed to a loan contract, must be reported

by the applicant to the division not later than 15 days after the applicant changes the design. The division may decide that a water project is no longer eligible for a loan based upon the design changes.

4. Water projects that are eligible for a loan from the account for the revolving fund are limited to systems which are not owned by the Federal Government that are:

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

5. Water projects that are eligible for a loan from the account for the revolving fund include, without limitation, water projects which:

- (a) Facilitate compliance with the health protection objectives of 42 U.S.C. § 300j-12(a)(2);
- (b) Facilitate compliance with NAC 445A.453 and 445A.455;
- (c) Replace aging infrastructure, if such infrastructure is needed to maintain compliance with or to further the public health protection goals of the Safe Drinking Water Act *or NAC 445A.450 through 445A.540 or NAC 445A.65505 through 445A.6731*;
- (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 *water source, treatment, storage or*, 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;~~ *Planning and Design;*
- (b) Construction management *including inspection;*
- (c) Water project facilities;
- (d) Land and rights-of-way or easements that are necessary to complete the water project;
- (e) The preparation of any environmental documents that the division or any other state or federal agency requires; and
- (f) Legal and financial services.

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

9. As used in this section:

- (a) “Disadvantaged community” means an area served by a public water system in which the *median* ~~average income per~~ household *income* is less than 80 percent of the ~~average~~ median household income of the ~~county~~ *state*.
- (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. 12. NAC 445A.67563 is hereby amended to read as follows:

NAC 445A.67563 Ineligibility for financial assistance for certain costs associated with water project. (NRS 445A.270) The division shall not provide financial assistance from the account for the revolving fund for the following costs associated with a water project:

- 1. The construction or rehabilitation of a dam;
- 2. The purchase of water rights, unless the water rights are owned by a public water system that is being purchased in an effort to consolidate as part of a program to develop the capability of a water system;
- 3. The construction or rehabilitation of a reservoir other than:
 - (a) A finished water reservoir; or
 - (b) A reservoir that is part of the treatment process and is located on the property where the treatment facility is located;

4. Laboratory fees for *routine* monitoring *of* water quality;
5. Expenses for operations and maintenance;
6. A project needed primarily for fire protection;
7. A water project for a public water system that lacks adequate capability, unless the financial assistance will ensure that the system acquires adequate capability;
8. A water project for a system that is in significant noncompliance with NAC 445A.453, unless the financial assistance will ensure full compliance;
9. A project that is primarily intended to serve future growth; or
10. Refinancing of a private system.

11. Projects that have received assistance from national set-aside for Indian Tribes under section 1452(i) of the Act.

Sec. 13. NAC 445A.67565 is hereby amended to read as follows:

NAC 445A.67565 Proposal for allotment of money for certain activities; use of money; application for capitalization grant. (NRS 445A.270)

1. Pursuant to the requirements of 42 U.S.C. §§ 300j-12(g)(2) and 30~~03~~0j-12(k), the division shall, at least annually, draft a proposal which sets forth the amount of money that the division will allot from the EPA allotment of available Safe Drinking Water Act funds for the various activities identified in the account for set-aside programs.

2. The division shall provide for a public participation process ~~[pursuant to NAC 445A.67558]~~ to:

- (a) Review a draft of the intended use plan for the account for set-aside programs; and
- (b) Obtain and review comments and proposals concerning the use of funds allocated to the account for set-aside programs.

3. The division shall:

(a) Make its decisions concerning the use of money in the account for set-aside programs, taking into consideration the comments and recommendations made during the public participation review process set forth in subsection 2; and

(b) Prepare an intended use plan as required pursuant to NAC 445A.67574, 445A.67575 and 445A.67576.

4. The division shall submit to the EPA an application for the capitalization grant award to fund the account for set-aside programs either by itself or together with the application for the capitalization grant award to fund the account for the revolving fund.

5. The division shall develop and submit to the EPA a detailed work plan for each set-aside program if the EPA requires such a plan.

Sec. 14. NAC 445A.67566 is hereby amended to read as follows:

NAC 445A.67566 Solicitation for proposals for water projects ~~and other requests for financial assistance~~; preapplications; consideration of unsolicited proposals; maintenance of files. (NRS 445A.270)

1. At least annually, the division shall solicit from public water systems:

(a) Proposals in the form of preapplications for water projects; and

(b) ~~Other requests for financial assistance from the account for the revolving fund.~~ Written requests from water projects currently on an existing priority list to remain on the priority list. The written request shall include an updated cost estimate, if available.

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 NAC 445A.67567 to 445A.67571, inclusive; 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, *if available*, 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.]~~

~~5 [6. Except as otherwise provided in this subsection, the division shall consider unsolicited proposals within the same 60-day period that the division considers solicited proposals.]~~ The division may consider a request for emergency assistance submitted pursuant to NAC 445A.67572 at any time.

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

~~7 [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. 15. NAC 445A.67567 is hereby amended to read as follows:

NAC 445A.67567 Priority list: Development; consideration of water projects for funding; revision of ranking of water project. (NRS 445A.270)

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

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

2 [3]. Only those projects that are included on the priority list will be considered for possible funding. Placement on the list does not guarantee that a project will receive funding.

3 [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 NAC 445A.67572; ~~or~~

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

4. The division may revise the list upon receipt of a preapplication after completing public review and receiving board for financing water projects approval.

Sec. 16. NAC 445A.67568 is hereby amended to read as follows:

NAC 445A.67568 Priority list: Considerations; contents. (NRS 445A.270)

1. When establishing the priority list, the division shall consider:

(a) The needs of the public water system;

(b) The types of corrective actions that are necessary to comply with state law or regulations;

(c) Any relevant court orders concerning the public water system;

(d) The total amount of money available in the account for the revolving fund; and

(e) Any other factors necessary to carry out the provisions of NAC 445A.67569, 445A.6757 and 445A.67571.

2. The priority list must include, without limitation:

(a) The name of each public water system that the division determines is eligible for financial assistance;

(b) The priority assigned to each proposed water project;

(c) A description of each water project;

(d) An estimate of the eligible costs of each proposed water project based on the best information available at the time the ~~intended use plan~~ *priority list* is developed; and

(e) The existing population of the service area of each public water system at the time of application.

Sec. 17. NAC 445A.67569 is hereby amended to read as follows:

NAC 445A.67569 Priority list: Criteria for ranking water projects; prioritizing requests for financial assistance. (NRS 445A.270)

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

(II) The rules governing the maximum contaminant levels of microbiological contaminants found in 40 C.F.R. § 141.63 or state issued boil water order; 4 points;

(III) 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

~~(IVH)~~ 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 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 *the requirements of NAC 445A.453, 10 points each.*

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

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

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

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

~~(v) The rule governing the maximum allowable levels of radium-226, radium-228 and gross alpha particle radioactivity found in 40 C.F.R. § 141.15, 5 points; or]~~

(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 ~~for combination of classes.~~

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

~~6] 5. [For priority lists determined after September 30, 1998, t]~~The product of the initial rank number of a water project within a class of water projects and the ratio of the state ~~[wide]~~ 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. *If final rank numbers are tied, the project serving the higher population is given the higher ranking.*

6. Additional factors may be considered in ranking projects. If additional factors are utilized in ranking, these factors must be included in the annual Intended Use Plan.

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

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

Sec. 18. NAC 445A.6757 is hereby amended to read as follows:

NAC 445A.6757 Priority list: Public review and comment; development of final or revised list. (NRS 445A.270)

1. The priority of water projects determined by the division pursuant to NAC 445A.67567 to 445A.67571, inclusive, is subject to the approval of the board for financing water projects.

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

3. The division shall consider comments and recommendations made in the public participation process in developing its final priority list or a revised priority list to be presented to the board for financing water projects.

4. The division may correct minor typographical or technical errors in the list without obtaining approval of the board for financing water projects.

Sec. 19. NAC 445A.67575 is hereby amended to read as follows:

NAC 445A.67575 Intended use plan: Preparation; contents. (NRS 445A.270)

1. An intended use plan must be prepared by the division which describes how all money deposited into the account for the revolving fund and the account for set-aside programs will be used. The intended use plan must include a description of:

(a) How all money that is made available to the account for the revolving fund and the account for set-aside programs will be used, including, without limitation, money from the following sources:

(1) Capitalization grants; and

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

(b) How loan repayments will be made;

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

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

(e) The financial status of the program;

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

(g) The amounts of money transferred between the account for the revolving fund and the account to finance the construction of treatment works and the implementation of pollution control projects created pursuant to NRS 445A.120;

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

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

(j) Priority lists for:

(1) Water projects that will receive funding in the first year after the grant award *if they are ready to proceed*; and

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

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

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

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

Sec. 20. NAC 445A.67576 is hereby amended to read as follows:

NAC 445A.67576 Intended use plan: Public review and comment; availability of final plan. (NRS 445A.270)

1. The division shall *seek meaningful public review and comment* ~~conduct a public participation process to obtain public comment and review pursuant to NAC 445A.67558~~ before finalizing its intended use plan.

2. Copies of the final intended use plan containing the information set forth in NAC 445A.67575 must be made available in the offices ~~of the bureau of health protection services~~ of the division, or its successor, and in the main public library of each county throughout this state.

Sec. 21. NAC 445A.67577 is hereby amended to read as follows:

NAC 445A.67577 Receipt of notification letter; filing of letter of intent. (NRS 445A.270)

1. Not later than 15 days after the priority list is approved by the board for financing water projects pursuant to NAC 445A.67571, the division shall notify each applicant of the priority list of the ranking of water projects.

2. ~~Not later than 30 days after the notification letter is sent to~~ *After* each applicant *is notified* 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 *submit a letter of intent* ~~[respond within 30 days]~~ after reviewing the notification letter may result in the bypass of the applicant's water project for that year pursuant to the procedure set forth in NAC 445A.67573. The applicant's water project will remain on the priority list for consideration in the following year.

Sec. 22. NAC 445A.67578 is hereby amended to read as follows:

NAC 445A.67578 Letter of intent: Contents; address; number of copies. (NRS 445A.270)

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.]~~

3 [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 NAC 445A.67579; and

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

Sec. 23. NAC 445A.67579 is hereby amended to read as follows:

NAC 445A.67579 Preapplication conference. (NRS 445A.270)

1. The division shall schedule a preapplication conference *as needed*. ~~[not later than 45 days after the division receives the letter of intent from the applicant.~~

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

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

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

~~(b) Assist the applicant in:~~

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

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

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

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

Sec. 24. NAC 445A.6758 is hereby amended to read as follows:

NAC 445A.6758 Initiation of process of environmental review: Application; plan for water project; changes in water project or environmental conditions. (NRS 445A.270, 445A.295)

1. The division shall initiate the process of environmental review after receiving a letter of intent from the applicant pursuant to NAC 445A.67577 and 445A.67578 *if the applicant is ready to proceed with the project. The division may offer a loan only after the applicant has completed the process of environmental review.*

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

~~2~~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.

~~3~~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.

~~4~~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. 25. NAC 445A.67581 is hereby amended to read as follows:

NAC 445A.67581 ~~Submission~~ Process of environmental review not required under certain circumstances. (NRS 445A.270, 445A.295) The division *may* ~~shall~~ not require an applicant to ~~complete and submit an~~ *undergo a new process of* environmental review pursuant to NAC 445A.6758 to 445A.67612, inclusive, if the applicant *has completed within the last five years or is in the process of completing a process of environmental review required by another*

agency that satisfies the federal and state requirements. ~~[submits with his application a permit for construction issued by the public utilities commission of Nevada pursuant to NRS 704.890.]~~ If the division determines that the process of environmental review of another agency satisfies the federal and state requirements in NAC 445A.6857 through 445A.67612, the division must follow the public notice procedures of NAC 445A.67584 and 445A.67589 and 445A.67612 .

Sec. 26. NAC 445A.67582 is hereby amended to read as follows:

NAC 445A.67582 Categorical exclusion: Review of request; determination by division.
(NRS 445A.270, 445A.295)

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

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

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

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

Sec. 27. NAC 445A.67583 is hereby amended to read as follows:

NAC 445A.67583 Categorical exclusion: Eligibility of water project. (NRS 445A.270, 445A.295)

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 NAC 445A.67578; ~~[and~~

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

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

(a) The rehabilitation of an existing facility;

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

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

- (a) A water project that creates a new source of water supply;
- (b) A water project that results in more than a minor increase in the capacity of:
 - (1) The distribution system of a public water system; or
 - (2) A public water system to develop and treat water;
- (c) A water project that is known or expected to have a significant effect on the quality of the human environment, regardless of whether the project:
 - (1) Will have an immediate significant effect on the environment; or
 - (2) Will cause the significant effect cumulatively over time, individually or in conjunction with other private actions or federal, state or local governmental actions;
- (d) A water project that is known or expected to affect directly or indirectly:
 - (1) Recognized cultural resources;
 - (2) Habitats of endangered or threatened species;
 - (3) Environmentally important natural resource areas, including, without limitation:
 - (I) Floodplains;
 - (II) Wetlands;
 - (III) Important farmlands;
 - (IV) Aquifer recharge zones;
 - (V) Scenic areas; or
 - (VI) Other resource areas; or
- (e) A water project that is known or expected not to be cost-effective or cause significant public controversy concerning the natural environment.

(f) A water project, which would normally qualify for a categorical exclusion that may have significant environmental effect.

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

Sec. 28. NAC 445A.67584 is hereby amended to read as follows:

NAC 445A.67584 Categorical exclusion: Public notice. (NRS 445A.270, 445A.295)

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

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

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

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

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

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

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

3. The notice must include:

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

(b) Reasons supporting the division’s preliminary determination of eligibility of a water project for categorical exclusion;

(c) Statement that the project is utilizing federal funds, if appropriate;

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

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

4. 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. 29. NAC 445A.67587 is hereby amended to read as follows:

NAC 445A.67587 Environmental *assessment* ~~[information document:]~~ Preparation; contents; *public review and comment.* (NRS 445A.270, 445A.295)

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

2. The environmental *assessment* ~~[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;]~~ *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;*

(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 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;*

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

(4) Compliance with regulatory requirements;

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

~~[(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;]~~

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

(i[§]) Any irreversible and irretrievable commitments of resources to the proposed water project;

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

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

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

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

3. The environmental **assessment** ~~[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.

6. The applicant shall make the draft environmental assessment available for review and comment by the public in a public participation process that conforms with the procedures set forth in NAC 445A.67558.

7. The applicant shall include a summary of the public participation in the draft environmental assessment submitted to the division.

Sec. 30. NAC 445A.67588 is hereby amended to read as follows:

NAC 445A.67588 Finding of no significant impact or notice to prepare environmental impact statement determination ~~[Draft environmental assessment: Preparation; contents; public review and comment. (NRS 445A.270, 445A.295)]~~

~~[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;~~

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

~~(g) The environmental consequences of long-term or irreversible environmental impacts;~~

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

~~(i) A description of the full range of relevant environmental impacts of the proposed action, including, without limitation, a description of measures taken by the applicant to mitigate adverse impacts and of any irreversible commitments of resources to the water project;~~

~~(j) A description of any specific requirements the applicant has for the water project, including, without limitation, a description of any conditions imposed on the applicant for financial assistance and the requirements of any relevant regional planning;~~

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

~~(l) Any other information or documentation that the division requests.~~

~~4. The division shall make the draft environmental assessment available for review and comment by the public in a public participation process that conforms with the procedures set forth in NAC 445A.67558, except that the division shall provide notice of the time and place for the meeting not less than 15 days before the meeting.]~~

I[5]. After the division considers *the draft environmental assessment and* any comments offered pursuant to the public participation process, the division shall issue:

(a) A preliminary finding of no significant impact pursuant to NAC 445A.67589 to 445A.67592, inclusive; or

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

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

Sec. 31. NAC 445A.67589 is hereby amended to read as follows:

NAC 445A.67589 Finding of no significant impact: Public notice. (NRS 445A.270, 445A.295)

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]~~ *The period of time allowed for public review of the Finding of No Significant Impact* is 30 days after ~~[#]~~ *the division* has provided notice in the manner set forth in subsection 2~~[3]~~.

Sec. 32. NAC 445A.67591 is hereby amended to read as follows:

NAC 445A.67591 Finding of no significant impact: Reevaluation of decision by division to issue finding. (NRS 445A.270, 445A.295)

1. If 5 years or more have passed since the division has issued a finding of no significant impact to a water project and the division has not yet recommended approval to the board for financing water projects, the division shall reevaluate its decision to issue the finding taking into consideration current environmental conditions and public views.

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

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

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

Sec. 33. NAC 445A.67593 is hereby amended to read as follows:

NAC 445A.67593 Partitioning of water project into discrete components: Request, requirements; determination by division. (NRS 445A.270, 445A.295)

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

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

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

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

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

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

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

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

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

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

(a) Immediately remedy an acute or severe public health or water quality problem *and/or achieve a cost savings to applicant's overall total costs for the water project;*

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

(c) Not cause significant, adverse, direct or indirect environmental impacts, including, without limitation, impacts that 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 may partition an applicant's water project only if the division determines that not doing so would:~~

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

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

~~6~~⁷. If the division partitions an applicant's water project, the division may execute a loan contract with the applicant to fund only any portion of the project that the division has approved pursuant to NAC 445A.67617 to 445A.67623, inclusive.

~~7~~⁸. If the division determines that partitioning:

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

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

Sec. 34. NAC 445A.67597 is hereby amended to read as follows:

NAC 445A.67597 Environmental impact statement: Distribution of draft by applicant; public notice of availability of draft. (NRS 445A.270, 445A.295)

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]~~ *The period of time allowed for public review of the Environmental Impact Statement is* 30 days after ~~[it]~~ *the division* has provided the notice in the manner set forth in subsection 3.

Sec. 35. NAC 445A.67611 is hereby amended to read as follows:

NAC 445A.67611 Completion of process of environmental review: Issuance of *record of decision* ~~[final determination]~~ regarding final environmental impact statement. (NRS 445A.270, 445A.295)

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 *record of decision* ~~[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 *record of decision* ~~[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 *record of decision* ~~[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 NAC 445A.6758.

Sec. 36. NAC 445A.67612 is hereby amended to read as follows:

NAC 445A.67612 Reevaluation of *record of decision* ~~[final determination]~~ by division; public notice; action taken upon receipt of comments. (NRS 445A.270, 445A.295)

1. If 5 years or more have passed since the division has issued its *record of decision* ~~[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 *decision* ~~[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 *record of decision* ~~[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 *record of decision* ~~[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]~~ *The period of time allowed for review of the record of decision is* 30 days after the *division* ~~[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 *record of decision* ~~[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 *assessment* ~~[information document]~~, the process of environmental review for the water project must comply with the procedure set forth in NAC 445A.67594 to 445A.67612, inclusive.

Sec. 37. NAC 445A.67613 is hereby amended to read as follows:

NAC 445A.67613 Contents of application: Short-term loan; long-term loan.

(NRS 445A.270)

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 *filing a letter of intent pursuant to NAC 445A.67578* ~~[the preapplication conference is held.]~~

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

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

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

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

(d) The estimated costs for the request;

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

(f) Information necessary for the division to determine how the loan is to be repaid; and

(g) Any other information deemed necessary by the division.

3. An application for a long-term loan submitted pursuant to NAC 445A.67561~~[4]~~ must include, without limitation:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(l)~~~~(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.

~~(m)~~~~(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.

~~(n)~~ ~~(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;~~

~~(3)~~ ~~(4)~~ Contractual loan agreements; or

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

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

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

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

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

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

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

~~(u)~~ *Financial projections for at least the next five years, including without limitation, revenues and expenses.*

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

(w) At least three credit references, *if appropriate*.

(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 ~~(l)~~(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 ~~(l)~~(m) of subsection 3.

7. The forecasts of population that an applicant provides pursuant to paragraph ~~(l)~~(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. 38. NAC 445A.6762 is hereby amended to read as follows:

NAC 445A.6762 Notification of action taken regarding recommendations; ~~request for issuance of securities.~~(NRS 445A.270)

1. The division shall notify the applicant ~~[and the administrator]~~ in writing no later than 15 days after it receives notice of the action taken by the board for financing water projects regarding the recommendations submitted pursuant to subsection 2 of NAC 445A.67619. The notification must include a copy of the written order of the board.

~~[2. The administrator shall, within 15 days after his receipt of the notification required by subsection 1, submit a written request to the state treasurer for the issuance of securities in an amount sufficient to provide to the account for the revolving fund the amount of funding required to be committed by the state for purposes of the loan. The administrator must include with his request a schedule regarding the time when that funding will be needed.~~

~~3. The administrator shall not enter into a loan contract with the applicant until the state treasurer has agreed to comply with the request submitted pursuant to subsection 2.]~~

Sec. 39. NAC 445A.67622 is hereby amended to read as follows:

NAC 445A.67622 Loan contract: Conditions for offer. (NRS 445A.270)

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 division has examined and approved the final set of plans and specifications for the water project pursuant to NAC 445A.67621; and]~~ The applicant has demonstrated adequate security for the loan.

(c) 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 NAC 445A.6762, the division shall, after it receives notice of the action taken by the board for financing water projects regarding the recommendations submitted pursuant to subsection 2 of NAC 445A.6762, prepare and transmit a loan contract to the applicant.]~~

Sec. 40. NAC 445A.67624 is hereby amended to read as follows:

NAC 445A.67624 Documentation required by division before commencing construction of water project; issuance of notice to proceed. (NRS 445A.270)

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 *and the division has approved the final set of plans and specification for the project pursuant to NAC 445A.67621.*

Sec. 41. NAC 445A.67626 is hereby amended to read as follows:

NAC 445A.67626 Documentation required by division relating to disbursement of money for water project. (NRS 445A.270)

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.]~~

(b) ~~[(e)]~~ 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. 42. NAC 445A.67628 is hereby amended to read as follows:

NAC 445A.67628 Adoption of accounting standards by reference; maintenance of separate accounts for water projects. (NRS 445A.270)

1. *The current pronouncements of the Governmental Accounting Standards Boards (GASB) and those of the Financial Accounting Standards Board (FASB) issued before November 30, 1989 which do not conflict with GASB pronouncements are hereby adopted by reference.* ~~[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 *principles* ~~[standards]~~, including those adopted by reference in subsection 1, *where applicable*.

Sec. 43. NAC 445A.67632 is hereby amended to read as follows:

NAC 445A.67632 System of user charges. (NRS 445A.270) Any system of user charges imposed by a recipient must:

1. Be designed to produce the money required for the costs of operation, maintenance and replacement of the water project and public water system;
2. Provide that each user or class of users shall pay its proportionate share of the costs of operation, maintenance and replacement of the water project and public water system; *and*
~~[3. Provide that each user will be notified at least annually, in conjunction with a regular bill or other means acceptable to the division, of the portion of the bill attributable to:
(a) The costs of operation, maintenance and replacement of the water project and public water system; and
(b) The retirement of the debts of the water project and public water system; and]~~
3[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. 44. NAC 445A.67634 is hereby amended to read as follows:

NAC 445A.67634 Construction contracts for public water system that is publicly owned: Compliance with certain requirements related to advertising for bids, and awarding and administration of contracts. (NRS 445A.270) If a public water system is publicly owned:

1. The recipient must comply with any applicable provisions of chapter 338 of NRS and chapter 338 of NAC *and all applicable federal laws and regulations* regarding the award and administration of contracts for water projects.
2. The recipient shall ensure compliance with all legal requirements for advertising for bids and awarding construction contracts.
3. The division *may* ~~[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. 45. NAC 445A.67637 is hereby amended to read as follows:

NAC 445A.67637 Participation by disadvantaged businesses: Awarding of subcontracts.

(NRS 445A.270) 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;

4. Establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses and women's business enterprises;

~~5~~⁴ Using the services of the Nevada commission on economic development and the business advocacy office to locate disadvantaged businesses capable of performing the work to be subcontracted; *and*

6. Require prime contractor to take the above steps for subcontracts.

Sec. 46. NAC 445A.67639 is hereby amended to read as follows:

NAC 445A.67639 Oversight inspections. (NRS 445A.270) 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. 47. NAC 445A.6764 is hereby amended to read as follows:

NAC 445A.6764 Submission and approval of manual of operations and maintenance for water project. (NRS 445A.270) ~~[Before a water project is 90 percent completed, a recipient shall submit to the division a draft of]~~ *No later than 90 days after the completion of a water project, the recipient shall submit* 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.]~~