

**PROPOSED REGULATION OF THE
STATE ENVIRONMENTAL COMMISSION**

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STATE ENVIRONMENTAL COMMISSION**

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

AUTHORITY: NRS 445A.135

**FINANCIAL ASSISTANCE FOR CONSTRUCTION OF WASTEWATER
TREATMENT WORKS AND POLLUTION CONTROL PROJECTS**

Section 1. Chapter 445A of NAC is hereby amended by adding thereto the provisions set forth as Sections 2 through 10 inclusive, of this regulation.

Sec. 2. “Principal forgiveness loan” means a loan to a recipient on which interest does not accrue or the recipient is not required to repay the principal amount of the loan.

Sec. 3. “Affordability criteria” means a specific set of residential data used to designate an area in which, as compared to other communities in this State, residents disproportionately experience economic, environmental or health issues, including, without limitation, high rates of poverty or unemployment.

Sec. 4. This section and NAC 445A.742 to 445A.762, inclusive, of this regulation may be referred to as the Nevada Environmental Review Process.

Sec. 5 “Clean Water Act” defined. “Clean Water Act” has the meaning ascribed to it in subsection 2 of NRS 445A.060.

Sec. 6. 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.685 to 445A.805, inclusive, is incorrect or based on inadequate knowledge may, within ten (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 Division, except that the informal discussion must be held no later than 30 days after the date on which the Division received the request.

2. If the informal discussion does not resolve the problem, the applicant or the recipient may, within ten (10) business days after the date scheduled for the informal discussion, submit a written request to the 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 Division, except that the informal conference must be held no later than sixty (60) days after the date on which the Division received the written request.

3. If the informal conference does not resolve the problem, the applicant or the recipient may, within ten (10) business days after the date scheduled for the informal conference, submit a written request to the Administrator for a determination. The Administrator shall issue a determination not later than thirty (30) days after the date on which the Administrator received the written request for a determination.

4. If the determination of the Administrator does not resolve the problem, the applicant or the recipient may, within ten (10) business days after the date the Administrator issues the determination, submit a written request to the Director for a review of the determination of the Administrator. The Director shall issue a determination not later than thirty (30) days after the

date on which the Director received the written request for a review. An applicant or recipient may not appeal a determination of the Director. Such a determination is the final remedy available to the aggrieved applicant or recipient.

Sec. 7. 1. The Division shall receive proposals for funding water pollution control projects other than treatment works projects in the form of preapplications. Any proposal in the form of a preapplication for a water pollution control project other than treatment works projects must be submitted to the Division:

(a) Electronically, through the Nevada Infrastructure Financial System at <https://ndepifs.ndep.nv.gov/>; or

(b) By any other method authorized by the Division.

2. Upon receipt of a preapplication for a water pollution control project other than treatment works projects, the Division shall consider:

(a) The project's management of water quality consistent with the goals and requirements of the Clean Water Act (Act);

(b) The severity of any public health or water quality problem which will be corrected by the proposed project;

(c) The total amount of money available in the fund;

(d) Any other factors as determined by the Division and outlined in the Intended Use Plan pursuant to NAC 445A.764.

3. If the Division determines the water pollution control project other than a treatment works project is eligible for funding, the Division shall send out a notice to bypass higher-ranking treatment works projects on the priority list as determined by NAC 445A.765 to

445A.768, inclusive. After receiving notice, the bypassed applicant must respond to the Division within 30 days.

4. After the notification period pursuant to the provisions of subsection 3, the bypassed applicant is then able to complete a letter of intent pursuant to the provisions of Sec. 7.

5. If the bypassed applicant files an objection in the response provided for in subsection 3 that the Division is unable to resolve, the Division shall forward the objection to the Administrator of the Division for decision pursuant to the provisions of NAC 445A.730.

Sec. 8. 1. Applicants ready to proceed to funding and having met the requirements pursuant to NAC 445A.769 and Sec. 7 must submit a letter of intent. The letter of intent shall be submitted electronically, through the Nevada Infrastructure Financial System at <https://ndepifs.ndep.nv.gov/>; or by any other method authorized by the Division.

2. The letter of intent shall include:

(a) The name, postal address, electronic mail address, and telephone number of each applicant;

(b) The title or name, the location, and a brief description of the proposed 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 project improvement and any additional costs necessary for financing the project improvement;

(e) Preliminary environmental information in a format 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 project improvement would bring the system into compliance with the requirements of the Clean Water Act;

(h) The anticipated schedule for filing an application and constructing the project;

(i) Any additional information required by the Division.

2. The letter of intent must be submitted to the Division:

(a) Electronically, through the Nevada Infrastructure Financial System at <https://ndepifs.ndep.nv.gov/>; or

(b) By any other method authorized by the Division.

3. The applicant's letter of intent to proceed with the proposed project serves as a request to the Division to initiate the state environmental review process pursuant to NAC 445A.742 to 445A.762, inclusive.

Sec. 9 Submission of certain documentation and information to Division before commencing construction of project; issuance of notice to proceed.

1. Before commencing the construction of a 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 project;

(b) Proof of the receipt of all permits required to construct the 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 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 project;

(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 project until receipt from the Division of a notice to proceed with the project. The Division may issue such a notice only after:

(a) The recipient has complied with the provisions of subsection 1 to the satisfaction of the Division; and

(b) The Division has examined and approved the final set of plans and specifications for the project pursuant to NAC 445A.770.

Sec. 10 Construction contracts: Compliance with certain requirements; resolution of disputes related to bidding.

1. If a project for a system, regardless of ownership, is designated an equivalency project for federal requirements, all contracts for architectural or engineering services must be negotiated in the same manner as a contract for architectural and engineering services under 40 U.S.C. §11 et. seq.

2. For publicly owned projects:

(a) The recipient must comply with any applicable provisions of chapter 338 of NRS, chapter 338 of NAC and all applicable federal laws and regulations regarding the award and administration of contracts for water projects;

(b) The recipient shall ensure compliance with all legal requirements for advertising for bids and awarding construction contracts;

(c) The Division may review the awards to ensure that the recipient and its consultants and contractors have complied with any applicable federal and state laws.

3. For privately owned projects:

(a) The recipient must demonstrate to the Division the recipient conducted a process of awarding and administration of construction contracts that is substantively similar to the requirements set forth in NRS 338 and NAC 338.

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. 11. NAC 445A.685 is hereby amended to read as follows:

445A.685 As used in NAC 445A.685 to 445A.805, inclusive, *and Sections 2 to 10, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NAC 445A.686 to 445A.727, inclusive, have the meanings ascribed to them in those sections.

Sec. 12. NAC 445A.712 is hereby amended to read as follows:

“Municipality” means:

1. Any city, town, county, district, association, or other public body created by or pursuant to the law of this State and having authority over the disposal of sewage, industrial wastes or other wastes; or

2. Any Indian tribe or authorized Indian tribal organization~~[-];~~ *or*

3. A designated and approved waste treatment management agency.

Sec. 13. NAC 445A.715 is hereby amended to read as follows:

“Operation and maintenance” means those activities required to ensure the dependable and economical functioning of treatment works *and water pollution control projects*.

Sec. 14. NAC 445A.716 is hereby amended to read as follows:

1. “Person” means the United States, to the extent authorized by federal law, any ~~[interstate agency, the State or any agency or institution thereof, or any municipality or other political subdivision of the State]~~ *eligible recipient*.

~~[2.—As used in this section, “interstate agency” means an agency of two or more states:~~

~~(a) Established by or pursuant to an agreement or compact approved by the Congress of the United States; or~~

~~(b) Having substantial powers or duties pertaining to the control of water pollution.]~~

Sec. 15. NAC 445A.718 is hereby amended to read as follows:

“Pollution control project” means any eligible component of a program for management established pursuant to ~~[33 U.S.C. § 1329]~~ *the Clean Water Act*.

Sec. 16. NAC 445A.719 is hereby amended to read as follows:

“Priority list” means the ordered listing, prepared annually, of projects for which the ~~[Department]~~ *Division* expects to provide financial assistance from the fund.

Sec. 17. NAC 445A.721 is hereby amended to read as follows:

“*Eligible Recipient*” means ~~[an]~~ *any legal* entity that receives financial assistance from the fund *in accordance with the Clean Water Act. Eligible recipient includes, without limitation:*

- 1. A municipality;*
- 2. An interstate agency;*
- 3. An intermunicipal agency;*
- 4. A state agency;*

5. A tribal government or authorized tribal organization;

6. A nonprofit organization to:

(a) Provide assistance to owners and operators of small and medium publicly owned treatment works;

(b) Provide assistance to eligible individuals for:

(1) The repair, replacement, or removal of a household decentralized treatment system;

(2) The removal of a household decentralized treatment system and connection into a publicly owned sanitary sewer.

7. To an entity or organization, whether publicly or privately owned, for the implementation and development of:

(a) A nonpoint source management project;

(b) A project to manage, reduce, treat, or recapture stormwater or subsurface drainage water;

(c) A watershed project;

(d) The construction, repair, replacement, or removal of a decentralized treatment system;

(e) The removal of a decentralized treatment system and connection into a publicly owned sanitary sewer;

(f) A project for reusing or recycling wastewater, stormwater, or subsurface drainage water.

8. As used in this section, “interstate agency” means an agency of two or more states:

(a) Established by or pursuant to an agreement or compact approved by the Congress of the United States; or

(b) Having substantial powers or duties pertaining to the control of water pollution.

9. As used in this section, “intermunicipal agency” means a service, agency, decision, plan or action undertaken or created by one or more municipalities on a cooperative basis.

Sec. 18. NAC 445A.725 is hereby amended to read as follows:

“Treatment works” *has the meaning ascribed to it in NRS 445A.410.* ~~means:~~

~~1.— Any device or system used in the storage, treatment, recycling or reclamation of municipal sewage or industrial wastes of a liquid nature, including any interceptor sewer, outfall sewer, sewage collection system, pumping, power or other equipment, and the appurtenances of any of these.~~

~~2.— Any extension, improvement, remodeling, addition or alteration of any device or system described in subsection 1.~~

~~3.— Any unit essential to provide a reliable recycled supply, such as a stand-by treatment unit or clear well facility. (including land used for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction.~~

~~4.— Any works, including any land that is an integral part of the treatment process or that is used for ultimate disposal of residues resulting from the treatment~~

~~5.— Any other method or system for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste, including storm water runoff, industrial waste or waste in combined storm water and sanitary sewer systems.~~

~~6.— Any pollution control project.]~~

Sec. 19. NAC 445A.728 is hereby amended to read as follows:

1. The primary purpose of the fund is to provide financial assistance as described in this section, other than grants, to ~~[municipalities]~~ *eligible recipients* for the construction of ~~[publicly owned wastewater]~~ treatment works and ~~[for]~~ the implementation of ~~[programs for the management of nonpoint sources of water pollution]~~ *water pollution control projects*.

2. The fund may be used to:

(a) Provide a loan at or below the market rate of interest, *including interest-free loans and principal forgiveness loans, at terms not to exceed the lesser of 30 years and the projected useful life of the project*;

(b) Guarantee, *or purchase insurance for*, a municipal obligation or purchase insurance for such an obligation if required to improve access to credit or reduce the rate of interest paid by the municipality; ~~[or]~~

(c) *Buy or* refinance a ~~[municipal]~~ *debt* obligation *of municipalities and intermunicipal and interstate agencies within the State* ~~[for an eligible wastewater facility]~~ at or below market rates if the debt is incurred ~~[and construction begins]~~ after March 7, 1985. A municipality that requests refinancing must comply with all the requirements of NAC 445A.685 to 445A.805, inclusive~~[.];~~
or

(d) Provide loan guarantees for similar revolving funds established by municipalities or intermunicipal agencies.

Sec. 20. NAC 445A.737 is hereby amended to read as follows:

A facility plan for a proposed wastewater treatment works or pollution control project must demonstrate, through a systematic evaluation of alternatives that are feasible in light of the unique demographic, topographic, hydrologic and institutional characteristics of the area, that the

alternative selected is the most economical means of meeting the applicable effluent, water quality and public health requirements over the design life of the facility.

1. The facility plan must include:

(a) A description of the proposed treatment work or pollution control project, including any relevant waste treatment systems, areas, and waters affected by the proposed project;

(b) A description of the best practicable technology and best management practices for the proposed project;

(c) A cost-effect analysis of the technically feasible conventional, innovative, and alternative management practices, processes, and techniques capable of meeting the applicable requirements of the Act over the useful life of the project;

(d) An evaluation of the selected alternative with appropriate detail of the relevant design parameters, cost effects on users of the wastewater system, institutional and management structures required for successful implementation of the project, and implications of the project on public or private water supply;

(e) An environmental information document that includes adequate evaluation of all significant environmental effects of the proposed project. The evaluation must satisfy requirements by the Division.;

(f) A cultural information document that includes adequate information on all historical and culturally significant properties inside and adjacent to the proposed project. The cultural information document must satisfy requirements of the division. ; and

(g) A detailed list of public participation in the development and approval process of the chosen project.

2. For the purposes of this section, a preliminary engineering report and environmental review can satisfy the requirements of a facility plan at the discretion of the Division.

Sec. 21. NAC 445A.742 is hereby amended to read as follows:

The ~~[process of environmental review of a proposed project includes the following steps]~~
state environmental review process includes the following steps:

1. An applicant for financial assistance shall consult with the Division during the formulation of the project or the preparation of the facility plan to:
 - (a) Determine whether the project is eligible for a categorical exclusion from any applicable provisions of NAC 445A.685 to 445A.805, inclusive;
 - (b) Determine alternatives to the project which must be evaluated;
 - (c) Identify potential environmental issues; and
 - (d) Determine the potential need for partitioning the environmental review process or the need for an environmental impact statement.
2. The Division shall determine if the project is eligible for a categorical exclusion. If the project is determined to be ineligible for such an exclusion, the applicant shall prepare an environmental information document for the project. The document must be included in the facility plan.
3. The ~~[Division]~~ *applicant* shall prepare an environmental assessment and ~~[subsequently]~~
the Division shall prepare and issue a finding of no significant impact or a notice of intent to prepare an environmental impact statement and record of decision.

Sec. 22. NAC 445A.743 is hereby amended to read as follows:

1. The Division shall initiate the ~~[process of environmental review]~~ *state environmental review process* at the earliest practicable date to identify environmental impacts, avoid delays, and resolve conflicts. This process must be integrated with the preparation of the facility plan.

2. A review of environmental information developed by the applicant must be conducted by the Division whenever meetings are held to assess progress in the development of the facility plan. These meetings must be held before a preferred alternative is selected.

3. A decision whether to prepare an environmental impact statement must be made as early as practicable during the preparation of the facility plan. The Division shall inform interested parties of:

(a) The preliminary nature of the Division's position on preparing an environmental impact statement;

(b) The relationship between the preparation of the facility plan and the process of environmental review;

(c) The extent of the public participation program; and

(d) The name of a person who may be contacted for further information.

Sec. 23. NAC 445A.744 is hereby amended to read as follows:

Categorical exclusion: Determination by Division; criteria for granting; request for exclusion of additional categories. (NRS 445A.135, 445A.160)

1. The Division shall determine whether an action is eligible for exclusion from review pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321 et seq.

2. The Division may grant a categorical exclusion to:

(a) Any action for which the facility plan is directed to the rehabilitation of existing facilities, replacement of equipment or the construction of a new ancillary facility adjacent or

appurtenant to an existing facility and not affecting the degree of treatment or capacity of that facility. These actions include, without limitation:

- (1) Infiltration and inflow corrections;
- (2) Replacement of existing mechanical equipment or structures; and
- (3) Construction of small structures on existing sites.

(b) Any action in a sewerred community which is for minor upgrading or minor expansion of existing treatment works.

(c) Any action in an unsewerred community where on-site technologies are proposed.

(d) Any other treatment works project for which there is sufficient evidence that a significant effect on the quality of the environment is unlikely.

3. The Division shall refuse a categorical exclusion if:

(a) The facilities to be provided create a new discharge or relocate an existing discharge to surface or groundwaters.

(b) The facilities result in substantial increases in the volume of discharge or the loading of pollutants from an existing source or from new facilities to receiving waters.

(c) The action is known or expected to have a significant effect on the quality of the human environment, whether individually, cumulatively over time or in conjunction with other federal, state, local or private actions.

(d) The action is known or expected to affect directly or indirectly cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, aquifer recharge zones or other resource area

(e) The action is known or expected not to be cost-effective or to cause significant public controversy.

4. The Division may request the Commission to exclude, by amendment to this section, any other category of projects for which there is sufficient evidence that a significant effect on the quality of the environment is unlikely.

Sec. 24. NAC 445A.746 is hereby amended to read as follows:

~~[Thirty days]~~ ***Fifteen (15) days*** must be allowed for review of any categorical exclusion. If no significant comment is received during that period, the ~~[process of environmental review]~~ ***state environmental review process*** will be considered complete. If any ~~[such]~~ ***significant*** comment ***as determined by the Division*** is received during that period, it must be resolved before the ~~[process of environmental review]~~ ***state environmental review process*** is completed.

Sec. 25. NAC 445A.748 is hereby amended to read as follows:

Review of completed facility plan; environmental assessment. (NRS 445A.135, 445A.160)

1. The Division shall review the completed facility plan ***and letter of intent*** with particular attention to the environmental information document and its use in the development of alternatives and the selection of a preferred alternative. An adequate environmental information document must be part of any facility plan submitted. The environmental information document must be of sufficient scope to enable the Division to approve or deny any request to partition the environmental review process and to prepare an environmental assessment.

2. The process of environmental assessment must cover all potentially significant environmental impacts. The ~~[Division]~~ ***applicant*** shall prepare a preliminary environmental assessment in sufficient detail to serve as an adequate basis for an independent environmental review and for the decision to prepare and issue a finding of no significant impact or an environmental impact statement. The Division may require the submission of supplementary information before approving any facility plan. Each of the following areas must be reviewed to

identify potentially significant environmental concerns and all potential impacts must be addressed in the environmental assessment:

(a) For the area delineated in the facility plan, the existing environmental conditions relevant to the analysis of alternatives or to determining the environmental impacts of the proposed action.

(b) The relevant future environmental conditions without the project.

(c) The purpose of and need for the facility. This must include a summary discussion and demonstration of the need for wastewater treatment in the area encompassed by the facility plan, with particular emphasis on existing public health or water quality problems and their severity and extent.

(d) A comparative analysis of feasible alternatives, including the no action alternative. The alternatives must be 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.

→ Special attention must be given to the environmental consequences of long-term, irreversible and induced environmental impacts. The reasons for rejecting any alternative must be presented in addition to any significant environmental benefits precluded by rejection of an alternative.

(e) A full range of relevant environmental impacts of the proposed action must be discussed, including measures to mitigate adverse impacts and any irreversible or irretrievable commitments of resources to the project. Any specific requirements, including conditions of

financial assistance and the requirements of an areawide waste treatment management plan or nonpoint source management program, must be identified and referenced. In addition to these items, the Division may require that other analyses and data which are needed to satisfy environmental review requirements be included with the facility plan.

3. The Division shall not accept a facility plan *or environmental information document* if the applicant has not made or agreed to make changes in the project in accordance with determinations made in a finding of no significant impact based on its supporting environmental assessment or the record of decision for an environmental impact statement.

4. Sources of information used to describe the existing environment and to assess future environmental impacts must be clearly referenced. These sources must include regional, state and federal agencies with responsibility or interest in the area and actions described in the facility plan.

Sec. 26. NAC 445A.751 is hereby amended to read as follows:

Finding of no significant impact: Issuance; notice. (NRS 445A.135, 445A.160)

1. If, after completion of the Division's review of the facility plan *and environmental assessment prescribed in NAC 445A.748*, it is determined that an environmental impact statement will not be required, the Division shall issue a finding of no significant impact. This finding must be based upon the Division's independent review of the preliminary environmental assessment and any other environmental information deemed necessary. Following the review by the Division, the environmental assessment must be finalized and made available for review by the public. The finding of no significant impact must list mitigation measures necessary to make the recommended alternative environmentally acceptable and must note any other environmental documents related to it.

2. Unless otherwise required by federal law, notice of a finding of no significant impact for review must be published on an Internet website designed to give general public notice.

3. Copies of a finding of no significant impact must be mailed directly to persons included on a mailing list maintained by the Division. The mailing list must include appropriate federal and state agencies, municipalities and interested members of the public. An additional copy of the finding must be submitted to the state clearinghouse for review.

Sec. 27 NAC 445A.754 is hereby amended to read as follows:

The Division shall ensure that an environmental impact statement is prepared and issued whenever the Division determines: ~~[, without limitation, that an action is known or expected:]~~

1. ~~[To have a significant effect on the quality of the human environment, either individually, cumulatively over time or in conjunction with other federal, state, local or private actions;]~~ *The applicant's proposed project is not eligible for a categorical exclusion or a finding of no significant impact; and*

2. ~~[To affect directly or indirectly recognized cultural resources, habitats of endangered or threatened species, environmentally important natural resource areas such as floodplains, wetlands, important farmlands, aquifer recharge zones, scenic areas or other resource areas; or]~~ *The project is known or expected to:*

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

(b) Affect, directly or indirectly, any recognized:

(1) Cultural resources;

(2) Habitats of endangered or threatened species;

(3) Environmentally significant 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.

~~3. [Not to be cost effective or to cause significant public controversy.]~~

Sec. 28 NAC 445A.755 is hereby amended to read as follows:

1. If the Division determines that an environmental impact statement will be required, the Division shall prepare and distribute a notice of intent.

2. As soon as possible after the distribution of the notice of intent, the Division *in partnership with the applicant* shall convene a meeting of affected federal, state, and local agencies, affected Indian tribes, the recipient and other interested parties to determine the scope of the environmental impact statement. As part of this meeting, the Division *and applicant* shall:

(a) Determine the significant issues to be analyzed in depth in the environmental impact statement;

(b) Identify the preliminary range of alternatives to be considered;

(c) Identify potential cooperating agencies and determine the information or analyses that may be needed from those agencies or other parties;

(d) Discuss the method for preparing the environmental impact statement and the strategy for securing public participation; and

(e) Determine the relationship between the environmental impact statement and the completion of the facility plan and any necessary coordination between the preparers of both documents.

3. Immediately following the meeting required by subsection 2, the ~~[Division]~~*applicant* shall commence the identification and evaluation of all potentially viable alternatives to address adequately the range of issues identified at the meeting. Additional issues may be addressed or others eliminated during this process and the reasons for doing so may be documented as part of the environmental impact statement.

4. Except as otherwise provided in subsection 5, after the Division determines the need for an environmental impact statement, the Division shall:

(a) Cause the statement to be prepared by ~~[members of its staff]~~ *the applicant*; or

(b) Contract for the preparation of the statement with a qualified consulting firm.

↳ The applicant will be charged a fee to cover the costs incurred in preparing the environmental impact statement *if a contract for the preparation of the statement is performed by the Division.*

5. If a federal agency is required to prepare an environmental impact statement, the Division and the applicant need not participate in the cost of the environmental impact statement but shall cooperate in the preparation of the statement.

Sec. 29 NAC 445A.761 is hereby amended to read as follows:

After the comment period, public hearings and consideration of comments received during the public participation process, a final environmental impact statement must be prepared. The final environmental impact statement must consist of:

1. The draft environmental impact statement;

2. Comments received concerning the draft environmental impact statement;
3. A list of persons commenting on the draft environmental impact statement;
4. The response of the Division *and applicant* to each significant comment received; and
5. Any other information deemed appropriate by the Division.

Sec. 30. NAC 445A.764 is hereby amended to read as follows:

1. An intended use plan must be prepared by the Division which describes how all money deposited into the fund will be used. The intended use plan must include a description of:
 - (a) The short- and long-term goals and objectives of the fund;
 - (b) The types of activities to receive financial assistance from the fund, including eligible categories of costs, the types of financial assistance to be provided by the fund and the terms for the various types of financial assistance provided by the fund;
 - (c) The criteria and method used for the distribution of money from the fund; and
 - (d) The criteria and method used for selecting treatment works or pollution control projects to be funded [~~as eligible activities for nonpoint sources~~].
 - (e) The affordability criteria established by the State that is intended to provide principal forgiveness loans to an eligible recipient.*
 - (f) The hardship waiver process for loan origination fees and service fees set forth in NAC 445A.775.*
2. An intended use plan must provide assurances and specific proposals regarding the manner by which the State intends to meet the requirements of the Act.
3. An intended use plan may be amended during the year pursuant to the provisions established in the intended use plan if the amended plan follows the public participation process as set forth in NAC 445A.7643.

Sec. 31. NAC 445A.765 is hereby amended to read as follows:

1. At least annually, the Division shall solicit from treatment works systems:

(a) Proposals in the form of preapplications for treatment works projects, and

(b) Requests from each applicant whose treatment works project is currently on the priority list, to be included on the next priority list.

2. Any proposal in the form of a preapplication for a treatment works project or request to be included on the next priority list must be submitted to the Division pursuant to subsection 1, as applicable:

(a) Electronically, through the Nevada Infrastructure Financial System at <https://ndepifs.ndep.nv.gov/>; or

(b) By any other method authorized by the Division.

3. If an applicant whose treatment works project is currently on a priority list fails to submit a request to be included on the next priority list pursuant to the provisions of subsection 1, the treatment works project is subject to exclusion from the next priority list.

[1-]4. The [~~Department~~] *Division* shall provide financial assistance from the fund to projects on a list of *treatment works* projects developed by the Division in accordance with a priority system meeting the requirements of NAC 445A.767. The list and system must be designed to achieve the optimum management of water quality consistent with the goals and requirements of the Act.

[]5. In establishing the priority of *treatment works* projects, the Division shall also consider the total amount of money available, the needs and priorities set forth in areawide water quality management plans and any other factors contained in the state priority system.

[]6. The priority list must include an estimate of the eligible cost of each project.

Sec. 32. NAC 445A.7655 is hereby amended to read as follows:

1. After the priority list is finalized by the Division, the Division shall notify each applicant on the priority list of the ranking of *treatment works* projects.

2. After receiving the notification ~~[letter]~~ pursuant to subsection 1, each applicant shall file with the Division a letter of intent *pursuant to Sec. 8.* ~~[, indicating its intentions to either:~~

~~(a) Proceed with an application for financial assistance for proposed 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 project for that year pursuant to the procedure set forth in NAC 445A.7675.]~~

Sec. 33. NAC 445A.766 is hereby amended to read as follows:

1. In developing its ~~[priority list]~~ *Intended Use Plan*, the Division shall establish the reserves required or authorized by the Act.

2. The Division may reserve ~~[not more than 4 percent]~~ *a portion* of the State's grant awards *pursuant to 33 U.S.C §1383(d)(7) to administer the fund and conduct activities under the Clean Water Act.* ~~[This money must be used to administer the fund and to manage the program.]~~

3. The Division shall, in accordance with the provisions of 33 U.S.C. § 1384(b), reserve ~~[4 percent of its annual allotment or \$100,000, whichever is more,]~~ *a required amount* to carry out water quality management planning.

4. The Division may reserve a portion of the State's grant awards pursuant to 33 U.S.C. §1383(k) to provide technical assistance to rural, small, and tribal publicly owned treatment works systems.

Sec. 34. NAC 445A.767 is hereby amended to read as follows:

Use of and requirements for priority system.

1. A priority system must be used to rank *treatment works* projects that are considered eligible for financial assistance from the fund.
2. The priority system must:
 - (a) Give highest priority to *treatment works* projects that are necessary to meet the enforceable requirements of the Act.
 - (b) Establish procedures for administration, management and public participation required to develop and revise the list of *treatment works* projects.
 - (c) Include the following criteria for ranking *treatment works* projects:
 - (1) The elimination of pollution from surface waters and groundwaters within this State.
 - (2) The protection of the health of the people of this State from harm caused by the inadequate or improper treatment, collection or disposal of wastewater.
 - (3) The attainment of standards of water quality adopted by the State Environmental Commission to protect designated beneficial uses.
 - (4) The operation of the fund in such a manner so as to impose the least possible financial burden on municipalities.
 - (d) ~~[Include categories of need. A project must fall into at least one of the following categories to be eligible for financial assistance from the fund:~~
 - ~~(1) Category I—Secondary treatment or any cost-effective alternative thereto.~~
 - ~~(2) Category II—Advanced treatment (treatment more stringent than secondary treatment).~~
 - ~~(3) Category IIIA—Infiltration and inflow protection.~~
 - ~~(4) Category IIIB—Major sewer system rehabilitation.~~

~~(5) Category IVA—New collection systems and appurtenances.~~

~~(6) Category IVB—New interceptor sewers and appurtenances.~~

~~(7) Category V—Correction of combined sewer overflows.~~

~~(8) Category VI—Treatment of wastewaters from nonpoint sources.]~~ *The Division shall*

place each treatment works project into one of the following three classes:

(1) A Class A treatment works project is intended to benefit public health and/or the environment.

(I) Treatment works projects necessary to eliminate documented public health hazards in unsewered communities through a finding of violation or an official action by a public health authority (10 points).

(II) Treatment works projects necessary to correct existing documented violations of surface water quality standards (8 points).

(III) Treatment works necessary to correct documented violations of discharge permit limitations (6 points).

(IV) Treatment works projects necessary to eliminate and/or prevent interference with an existing beneficial use of groundwater where it has been determined that such an interference exists (4 points).

(V) Any other treatment works project that has demonstrated compliance violations, or is proactively addressing a public health and/or environmental impact that is outlined in the intended use plan (1 point).

(2) A Class B treatment works project is necessary to increase reliability or sustainability.

(I) Treatment works necessary to provide a degree of treatment beyond water quality standards or permit requirements (10 points).

(II) Interceptors in sewer communities, pumping stations, infiltration inflow correction, correction of combined sewer overflows, sewer system rehabilitation, or reclaimed water distribution (8 points).

(III) Facility flow or loading as a percent of design capacity exceeds 85 percent (6 points).

(IV) Facility flow or loading as a percent of design capacity exceeds 75 percent (4 points).

(V) Any other treatment works project that addresses reliability or sustainability that is outlined in the intended use plan (1 point).

(3) Other treatment works projects.

(I) Projects providing wastewater treatment and collection systems in existing unsewered communities with no public health hazards or water standards violations; or projects providing wastewater collection systems to unsewered portions of sewer communities (10 points).

(II) All other treatment works projects (5 points).

3. Regardless of the class in which a treatment works project is placed and in addition to the criteria applicable to the project pursuant to paragraph (c), a treatment works project shall receive additional points for the following criteria:

(a) For any system having mapped its facilities and analyzed risks of failure in the system, the expected dates for renewing and replacing its facilities and equipment, and the sources

and amounts of money needed to finance the operation, maintenance, and capital expenditures of the system, 5 points.

(b) For any system having developed a rate structure appropriate to build, operate, and maintain the system, 5 points.

(c) For any system having specifically allocated money for the rehabilitation and replacement of aging or deteriorating facilities and equipment, 5 points.

4. The Division shall rank treatment works projects first according to which class the project is in, with Class A projects having the highest priority and Class C projects having the lowest priority, and then within the class according to the point total each treatment works project receives pursuant to the ranking system set forth in subsection d.

5. The Division shall not move a treatment works project from one class to another based on the ranking the water project receives from the total points within each class.

6. If the Division determines that the water project will serve an area that meets affordability criteria as outlined in the Intended Use Plan, the Division shall add an additional 25 points to the total score of the water project.

7. If two or more treatment works projects within the same class have the same final rank number, the treatment works project that is associated with the service area with the highest population shall be deemed to be ranked higher within the class.

Sec. 35. NAC 445A.769 is hereby amended to read as follows:

1. To obtain approval of financial assistance, an applicant must submit a letter of intent, a facility plan, *and* an environmental document [~~and a draft revenue program~~]. After these documents are approved *by the Division*, the Division shall consider the project for initial approval of financial assistance.

2. Factors to be considered in awarding approval include:

- (a) Placement on the *treatment works* priority list *or factors evaluated as set forth in Sec. 7*;
- (b) The readiness of the project to proceed with construction; and
- (c) The severity of any public health or water quality problem which will be corrected by the

proposed project.

3. Initial approval of financial assistance for a project shall be deemed a binding commitment to provide such assistance.

Sec. 36. NAC 445A.770 is hereby amended to read as follows:

1. To obtain financial assistance from the fund, the following documents must be submitted:

- (a) An application for assistance in the form prescribed by the Division;
- (b) Final plans and specifications and an estimate by an engineer of the costs of construction

for the project;

(c) A preliminary project schedule which provides a timetable for advertising and for opening bids, hiring and training operators, submission of an operation and maintenance manual, adoption of a system of user charges and a sewer use ordinance, completion of construction and initiation of operation. As used in this paragraph, initiation of operation means the date specified by the recipient on which use of the project begins for the purposes that it was planned, designed and built;

(d) An approval from the governing board of the system that indicates their need for the project, their request to obtain a loan from the fund, and those individuals authorized to represent the system for the chosen project.

2. An agreement for financial assistance must not be offered until the applicant:

- (a) Receives initial approval of assistance; and

(b) Anticipates bid solicitation in the near future.

3. The agreement for financial assistance must be prepared and transmitted to the applicant for his or her signature no later than the time of the approval to award the construction contract.

4. A determination of project eligibility must be made during the preparation of the facility plan. After the initial approval of financial assistance, subsequent design reviews must be for the purpose of ensuring that the proposed design is conceptually the same as that approved by the Division.

Sec. 37. NAC 445A.771 is hereby amended to read as follows:

Examination of plans and specifications; submission of documents for review.

1. An examination of the plans and specifications for a project must be performed to determine whether[=

~~(a) The design is consistent with the facilities described in the facility plan;~~

~~(b) The proposed project, in concept, will meet discharge requirements; and~~

~~(c) F] the project will comply with applicable federal and state requirements.~~

2. An applicant shall submit the following documents for review:

(a) A design report;

(b) Except as otherwise provided in this paragraph, a set of specifications and plans not less than 90 percent complete. Depending upon the complexity of the project, a 50 percent submittal may be required;

(c) A final set of specifications and plans. These must be submitted before advertising for bids; and

(d) Any addenda issued during the bidding process.

Sec. 38. NAC 445A.772 is hereby amended to read as follows:

Submission of agreements regarding projects intended to serve two or more ~~[municipalities]~~ *eligible recipients*.

If a project will serve two or more ~~[municipalities]~~ *eligible recipients*, the applicant shall submit the executed intermunicipal agreement, contract or other legally binding instrument necessary for the financing, building and operation of the proposed ~~[treatment works]~~ *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. 39. NAC 445A.775 is hereby amended to read as follows:

445A.775 Fee for award of financial assistance.

1. The ~~[Director]~~ *Division shall* ~~[may, with the approval of the Department of Administration,]~~ impose and collect a fee for each award of financial assistance from the fund.

~~[The fee must not exceed 0.5 percent of:~~

~~(a) The amount of the loan, if assistance is given in the form of a loan.~~

~~(b) The amount of the obligation, if assistance is given in the form of a guarantee of a municipal obligation or the purchase of insurance for such an obligation.~~

~~(c) The amount refinanced, if assistance is given in the form of the refinancing of a municipal obligation.~~

~~2.— Money so collected must be used to defray the cost of administering the fund.]~~

2. The Division shall charge a recipient a loan origination fee of:

(a) If the recipient receives a principal forgiveness loan or a short-term loan, \$1,000;

(b) If the recipient receives a long-term loan, 0.5 percent of the total amount of the long-term loan;

(c) A loan origination fee required pursuant to subsection 1 is due to the Division not later than 30 days after the closing of the loan.

3. In addition to a loan origination fee provided by subsection (c), the Division shall charge a recipient:

(a) If the recipient issues a bond, a fee equal to 0.5 percent of the original loan amount;

(b) If the recipient does not issue a bond, a fee equal to 0.75 percent of the original loan amount.

4. Any fee required pursuant to subsection 3 must be paid to the Division in equal installments over the life of the loan and is due to the Division not later than January 1 of each year.

5. The Division shall make available a waiver of the origination fees outlined in section 2, the service fees as outlined in section 3, or both, if the recipient can demonstrate to the Division that paying the fees would cause hardship. The Division shall consider the following factors in determining whether a hardship exists:

(a) Whether user rates of the utility fund are sufficient and reasonable to operate, maintain, and replace the current and future system assets;

(b) Frequency of utility rate increases over the last five years by the governing board;

(c) Unrestricted cash maintained by the utility fund for the specific system;

(d) Analysis of the loan fees to user rates average cost;

(e) Other sources of cash of the utility fund, including, but not limited to, other utility subsidies, transfers from other sources, grants, bond proceeds, interest earnings, and donations.

6. The procedure for determining a hardship that is developed by the Division must be included in the Intended Use Plan set forth in NAC 445A.764.

Sec. 40. NAC 445A.779 is hereby amended to read as follows:

Adoption of accounting standards by reference; maintenance of separate project accounts.

1. [~~The State Environmental Commission hereby adopts by reference the accounting standards contained in Standards for Audit of Governmental Organizations, Programs, Activities and Functions, published by the General Accounting Office. A copy of this publication is available at a cost of \$3.50 by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll free telephone at (866) 512-1800.~~] *The Commission hereby adopts by reference the most current pronouncements issued by the Governmental Accounting Standards Board, unless a pronouncement is disapproved by the Commission within 60 days after the date the pronouncement is published. The Commission will review each pronouncement to ensure its suitability for this State. A copy of the pronouncements is available from the Governmental Accounting Standards Board free of charge at <https://www.gasb.org>.*

2. *The Commission hereby adopts by reference the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989. If the pronouncements issued by the Financial Accounting Standards Board on or before November 30, 1989, conflict with the most current pronouncements issued by the Governmental Accounting Standards Board adopted by reference pursuant to subsection 1, the pronouncements issued by the Governmental Accounting Standards Board apply. The pronouncements are available, free of charge, from the Financial Accounting Standards Board at <https://www.fasb.org>.*

3[2]. A recipient of financial assistance shall maintain separate project accounts in accordance with generally accepted governmental accounting standards, including those adopted by reference in subsections 1 *and* 2.

Sec. 41. NAC 445A.788 is hereby amended to read as follows:

Requirements for system of user charges. A system of user charges must:

1. Be designed to produce the money required for costs of operation, maintenance, ~~[and]~~ replacement of ~~[treatment works]~~ *capital assets, and debt service of the system*;
2. *If applicable, [P] provide* that each user who discharges pollutants which cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay for the increased cost;
3. *If applicable, [P] provide* that each user or class of users shall pay its share of the cost of operation, maintenance, ~~[and]~~ replacement of ~~[treatment works]~~ *capital assets, and debt service* within the service area of the applicant, based upon the proportionate contribution by the user or class to the total wastewater load;
4. *If applicable, [P] provide* that each user will be notified at least annually, in conjunction with a regular bill or other means acceptable to the Division, of that portion of the bill attributable to the costs of operation, maintenance, ~~[and]~~ replacement, *and debt service*; ~~[and]~~
5. Include an adequate system of financial management that will account accurately for revenues generated by the system and expenditures for operation, maintenance, ~~[and]~~ replacement *of capital assets, and debt service* based on an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, *equipment*, material, *supplies*, energy and administration, *and replacement of facilities that have exceeded their useful life*.

Sec. 42. NAC 445A.789 is hereby amended to read as follows:

Adoption of system of user charges. One or more ~~[municipal legislative enactments]~~ ***governing body ordinance or resolution*** must incorporate the system of user charges. If a project accepts wastewater from other municipalities, the subscribers receiving waste treatment services from the recipient shall adopt a system of user charges meeting the requirements of NAC 445A.788. This system must be incorporated in an appropriate legislative enactment by each municipality contributing wastes to the treatment works.

Sec. 43. NAC 445A.791 is hereby amended to read as follows:

Periods for adoption and implementation of sewer use ordinance and system of user charges. ~~[A]~~ ***An eligible*** recipient shall adopt its ~~[sewer use ordinance and implement its]~~ system of user charges before the ~~[treatment works]~~ ***project*** is placed in operation. The recipient shall implement the system of user charges ~~[and sewer use ordinance]~~ during the entire useful life of the ~~[treatment works]~~ ***project***.

Sec. 44. NAC 445A.794 is hereby amended to read as follows:

Compliance with federal and state law regarding labor and wages.

1. ~~[A]~~ ***An eligible recipient*** ~~[of financial assistance]~~ shall comply with the provisions of the Davis-Bacon Act, 40 U.S.C. §§ 276a et seq., if they apply ***to the project.*** ~~[, and the provisions of NRS 338.010 to 338.090, inclusive.]~~

(a) Publicly owned projects shall further comply with the provisions of NRS 338.020 to 338.090, inclusive.

2. The Division shall review the final contract documents to verify that the proper federal and state wage determinations have been included.

3. The recipient is responsible for assuring compliance with all applicable labor laws.

Sec. 45. NAC 445A.795 is hereby amended to read as follows:

Participation by disadvantaged businesses: Generally.

1. An applicant for financial assistance shall comply with ~~[the requirements]~~ *any applicable equivalency requirement* of federal law concerning the participation of disadvantaged businesses.

2. ~~[Each]~~ *A* recipient of financial assistance shall attempt to comply with the fair share percentages established annually for disadvantaged businesses by the Division and the United States Environmental Protection Agency. ~~[Any]~~ *A* recipient not meeting these goals shall submit evidence of compliance with the affirmative steps identified in NAC 445A.796.

3. ~~[An applicant for financial assistance]~~ *A recipient* shall submit with his or her request for approval of an award a report, in the form prescribed by the Division, of participation by disadvantaged businesses. If the low bidder on any construction contract does not meet the fair share requirements for disadvantaged businesses, the applicant shall submit to the Division evidence of compliance by the bidder with the affirmative steps identified in NAC 445A.796.

4. A recipient of financial assistance shall submit to the Division, in the form prescribed by the Division, a report of participation by disadvantaged businesses following any quarter during which any procurement ~~[of \$10,000 or more]~~ *equal to the value that is required by federal requirements* is executed for the project. As used in this subsection, “quarter” means a quarter in the federal fiscal year.

Sec. 46. NAC 445A.796 is hereby amended to read as follows:

Participation by disadvantaged businesses: Awarding of subcontracts. If the contractor for a project awards any subcontracts relating to the project, he or she shall *comply with any applicable equivalency requirement of federal law and* take 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. Assuring 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. Establishing a schedule for the delivery of a requirement, if the requirement permits, to allow maximum participation by disadvantaged businesses.

~~[4.]5. Using the [services of Nevada Economic Development Company and the Nevada Office of Small Business to locate disadvantaged businesses capable of performing the work to be subcontracted.]~~ *list of vendors certified through the federal Disadvantaged Business Enterprise Program, as maintained by the United States Department of Transportation, or an equivalent list of such vendors.*

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

Sec. 47. NAC 445A.798 is hereby amended to read as follows:

Entry by representative of Division onto site of project. During the construction of a project, *regardless of ownership*, the recipient shall permit any authorized representative of the Division to enter onto the site of the project at any reasonable time.

Sec. 48. NAC 445A.799 is hereby amended to read as follows:

Oversight inspections; final construction inspection.

1. The Division may conduct oversight inspections during the construction of a project *as needed to satisfy federal and state requirements of the program.* ~~[The primary purpose of any~~

~~such inspection must be to ascertain that the recipient is constructing the project according to applicable contract requirements. The first inspection must normally be conducted at the time the project is 10 percent complete. Subsequent inspections must be conducted only if they are deemed necessary by the Division.]~~

2. The Division shall conduct a final construction inspection of each project. The primary purpose of this inspection must be to ascertain that the project has been constructed according to the approved plans and specifications and to ensure that required mitigation measures have been implemented. At the time of the inspection, the completion date for the project must be established for the purpose of beginning the 1-year period for certification of the performance of the project.

Sec. 49. NAC 445A.801 is hereby amended to read as follows:

Submission and approval of operation and maintenance manual for project. *If applicable,* [B]before a project is 90 percent completed, a recipient shall submit to the Division an operation and maintenance manual for the project. ~~[Not more than 90 percent of the total financial assistance for the project may be provided until the manual has been reviewed and approved by the Division.]~~

Sec. 50-5 are hereby repealed:

Sec. 50 ~~[NAC 445A.733 A facility plan for a proposed wastewater treatment works must include:~~

~~1.—A description of the proposed treatment works and the complete waste treatment system of which it is a part.~~

~~2.—A description of the best practicable wastewater treatment technology.~~

~~3.—A cost-effect analysis of the feasible conventional, innovative and alternative wastewater treatment works, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the facility while recognizing environmental and other nonmonetary considerations.~~

~~4.—A demonstration of the nonexistence or possible existence of excessive infiltration or inflow in the sewer system.~~

~~5.—An analysis of any potential open space and recreation opportunities associated with the project.~~

~~6.—An environmental information document that includes an adequate evaluation of the environmental impacts of alternatives. This evaluation must discuss all significant environmental effects of the proposed project and the implications of the project with respect to:~~

~~(a) Threatened or endangered species;~~

~~(b) Wetlands;~~

~~(c) Farmland;~~

~~(d) Fish and wildlife;~~

~~(e) Cultural resources;~~

~~(f) Open spaces;~~

~~(g) Environmentally sensitive areas;~~

~~(h) Air quality;~~

~~(i) Water quality;~~

~~(j) Consistency with land use plans;~~

~~(k) Energy use;~~

~~(l) Long-term versus short-term trade-offs;~~

~~(m) Growth inducement;~~

~~(n) Floodplains; and~~

~~(o) Consistency with areawide planning, such as basin plans and plans prepared pursuant to section 208 of the Act, 33 U.S.C. § 1288.~~

~~7.—An evaluation of the implications of the project for the public or private water supply.~~

~~8.—For the selected alternative, a concise description at an appropriate level of detail of:~~

~~(a) Relevant design parameters.~~

~~(b) Cost effects on users of the wastewater system.~~

~~(c) Institutional and management arrangements required for successful implementation of the project.~~

~~(d) Estimated costs for capital construction, operating and maintenance costs and costs for debt service and a description of the manner in which local costs are to be financed, including a preliminary revenue program in the form prescribed by the Division.~~

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

~~9.—A summary of public participation in the development of the facility plan.]~~

Sec. 51 [~~NAC 445A.734~~

~~1.—A cost-effect analysis prepared pursuant to NAC 445A.733 must include:~~

~~(a) A description of the relationship between the capacity of alternatives and the needs to be served, including capacity or future growth expected after the treatment works become operational. The description must include estimates from significant industrial and commercial users documenting the need for capacity and the characteristics of existing or projected flows.~~

~~(b) An evaluation of improved effluent quality attainable by upgrading the operation and maintenance and efficiency of existing facilities as an alternative or supplement to the construction of new facilities.~~

~~(c) An evaluation of the alternative methods for the reuse or ultimate disposal of treated wastewater and sludge resulting from the treatment process.~~

~~(d) An evaluation of systems with revenue-generating applications.~~

~~(e) An evaluation of opportunities to reduce the use of energy or to recover energy.~~

~~(f) Information concerning total capital costs and annual operation and maintenance costs, as well as estimated annual or monthly costs to residential, commercial and industrial users.~~

~~2. The planning period used in the analysis must be 20 years.~~

~~3. The monetary costs to be considered in the analysis must include the present worth or equivalent annual value of all capital costs and operation and maintenance costs.~~

~~4. The forecasts of population contained in the analysis must be consistent with those prepared by the Department of Taxation.~~

~~5. As used in this section, "industrial user" means any nongovernmental, nonresidential user of a publicly owned treatment works who is identified in the Standard Industrial Classification Manual, 1972 edition, of the Office of Management and Budget under one of the following divisions:~~

~~(a) Division B—Mining.~~

~~(b) Division D—Manufacturing.~~

~~Ê A copy of the Manual may be obtained by mail from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 979050, St. Louis, Missouri 63197-9000, or by toll-free telephone at (866) 512-1800, for the price of \$24.]~~

~~Sec. 52 [NAC 445A.735—Proposed pollution control projects: Contents of facility plan.~~

~~(NRS 445A.135)—A facility plan for a proposed pollution control project must include:~~

~~1.—A description of the nonpoint sources of pollution and the areas and waters affected by them.~~

~~2.—A description of the best management practices considered.~~

~~3.—A cost-effect analysis of the feasible conventional, innovative and alternative management practices, processes and techniques capable of meeting the applicable effluent, water quality and public health requirements over the design life of the project while recognizing environmental and other nonmonetary considerations.~~

~~4.—An environmental information document that includes an adequate evaluation of the environmental impacts of alternatives. This evaluation must discuss all significant environmental effects of the proposed project and the implications of the project with respect to:~~

~~(a) Threatened or endangered species;~~

~~(b) Wetlands;~~

~~(c) Farmland;~~

~~(d) Fish and wildlife;~~

~~(e) Cultural resources;~~

~~(f) Open spaces;~~

~~(g) Environmentally sensitive areas;~~

~~(h) Air quality;~~

~~(i) Water quality;~~

~~(j) Consistency with land use plans;~~

~~(k) Energy use;~~

~~(l) Long-term versus short-term trade-offs;~~

~~(m) Floodplains; and~~

~~(n) Consistency with areawide planning, such as basin plans and plans prepared pursuant to section 208 of the Act, 33 U.S.C. § 1288, and the nonpoint source management program.~~

~~5. For the selected alternative, a concise description at an appropriate level of detail of:~~

~~(a) Relevant design parameters.~~

~~(b) Cost effects on users of the wastewater system.~~

~~(c) Institutional and management arrangements required for successful implementation of the project.~~

~~(d) Estimated costs for capital construction, operating and maintenance costs and costs for debt service costs and a description of the manner in which local costs are to be financed, including a preliminary revenue program in the form prescribed by the Division.~~

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

~~6. A summary of public participation in the development of the facility plan.]~~

~~Sec. 53 [NAC 445A.736~~

~~1. A cost-effect analysis prepared pursuant to NAC 445A.734 must include:~~

~~(a) A description of the relationship between the capacity of alternatives and the needs to be served, including capacity or future growth expected after the project becomes operational.~~

~~(b) An evaluation of the alternative methods for the reuse or ultimate disposal of treated wastewater and sludge resulting from the treatment process.~~

~~(c) Information concerning total capital costs and annual operation and maintenance costs.~~

~~2. The planning period used in the analysis must be 20 years.~~

~~3.—The monetary costs to be considered in the analysis must include the present worth or equivalent annual value of all capital costs and operation and maintenance costs.~~

~~4.—The forecasts of population contained in the analysis must be consistent with those prepared by the Department of Taxation.]~~

~~Sec. 54 [NAC 445A.738—Public hearing before adoption of facility plan. (NRS 445A.135)~~

~~1.—Before adopting a facility plan, an applicant for financial assistance must hold a public hearing to describe the proposed project and ensure that the concerns of the public are fully considered.~~

~~2.—The time, place and subject of the public hearing must be announced conspicuously and adequately by the applicant not less than 30 days before the hearing. Copies of the facility plan must be made available for inspection by the public not less than 15 days before the hearing.~~

~~3.—Notice of the hearing must be circulated within the geographical area covered by the facility plan by:~~

~~(a) Publishing notice of the hearing in a newspaper of general circulation in the area; or~~

~~(b) Unless otherwise required by federal law, posting notice of the hearing on an Internet website designed to give general public notice that has been approved by the Division.~~

~~4.—Notice of the hearing must be mailed by the applicant to any person or organization included on a mailing list provided by the Division.~~

~~5.—Ten copies of the facility plan must be submitted by the applicant to the state clearinghouse for review.]~~

~~Sec. 55 [NAC 445A.778—A project must be consistent with the approved elements of any applicable water quality management plan developed pursuant to 33 U.S.C. § 1285(j), 1288,~~

~~1313(e) or 1329 and the applicant must be the wastewater management agency designated in that plan.]~~

~~Sec. 56 [NAC 445A.784—An applicant for a privately owned individual system shall provide assurance of access to the system at all reasonable times for such purposes as inspection, monitoring, building, operating, rehabilitation and replacement.]~~

~~Sec. 57 [NAC 445A.792~~

~~1.—Before awarding any construction contract relating to a project, an applicant for financial assistance shall submit to the Division, in the form prescribed by it, a request for approval of the award.~~

~~2.—The Division may approve the award of the contract only to the lowest responsive, responsible bidder. The Division shall also review the request for approval to ensure that the applicant, his or her consultants and his or her contractors have complied with the positive effort policies relating to disadvantaged businesses.~~

~~3.—The Division shall not participate in the resolution of any dispute relating to bidding. The resolution of any such dispute is the sole responsibility of the applicant. A request for approval must not be granted until any such dispute has been resolved.~~

~~4.—A request for approval must not be granted until it can be demonstrated that the project is consistent with approved water management plans and that a valid discharge permit has been issued for the project.]~~

~~Sec. 58 [NAC 445A.793~~

~~1.—Except as otherwise provided in subsection 2, a recipient of financial assistance shall award the prime construction contract within 90 days after the Division approves the award of~~

~~the contract. If the contract is not awarded within that time, the agreement for financial assistance is null and void.~~

~~2. The Division may, upon the request of a recipient, grant an extension of the time provided by subsection 1 in any case where unusual or extenuating circumstances exist. Any request for an extension must be made in writing and must set forth facts justifying the extension.]~~