



NEVADA DIVISION OF
**ENVIRONMENTAL
PROTECTION**



Clean Water State Revolving Fund

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Proposed Regulation Changes

NAC 445A.685 to NAC 445A.805

CWSRF Overview

- Established in 1987 to provide financial assistance to help achieve the health protection objectives of the Clean Water Act
- Federal money is combined with state money to provide loans and technical assistance
 - Federal Program Requirements
 - Sustainability of the program for Nevada's systems
- Current regulations do not align in some areas with other state and federal requirements
 - Nevada is more restrictive than federal

Proposed Changes

- A. Align with AB20 (83rd Session)
- B. Define “affordability criteria”
- C. Amend the Environmental Review process
- D. Amend the administrative fee for loans
- E. Align state regulations with federal changes, and
- F. Housekeeping amendments

A. Align with 2022 changes to NRS (AB20)

NAC	Current	Proposed R123-24	Notes
New § § 2–6 (Definitions and eligibility)	Not present	Adds affordability criteria, principal forgiveness loan, expands eligible recipient (municipalities, interstate/intermunicipal agencies, state agencies, tribal governments, certain nonprofits, and projects for nonpoint/storm water/watershed/reuse)	Significantly broadens who can receive assistance and the types of projects eligible beyond publicly owned treatment works.
NAC 445A.716	Defines “Person,” includes interstate agencies	Replaced with “eligible recipient”	Shifts focus from “person” to “eligible recipient,” aligning with expanded eligibility model.
NAC 445A.719	Department provides assistance from “fund”	Division provides assistance from Account	Conforms to AB20; duty moved from Department to Division.
NAC 445A.728	Loans, guarantees, insurance, refinance; “fund”; municipalities	Switch to Account; explicitly authorizes interest-free loans and principal forgiveness loans; sets max term (≤ 30 years or useful life); expands refinance/buy debt; loan guarantee for similar municipal revolving fund	Expands tools (forgiveness; interest-free), sets standard loan terms; broadens refinance/guarantee authority.
NAC 445A.797–.798	Recipient notice of award/start/change; site access during construction	Applies to eligible recipients; access “regardless of ownership”; maintains notification list	Ensures Division access to privately owned sites; improves oversight capability.

B. Define “Affordability Criteria”

NAC	Current	Proposed R123-24	Notes
New § § 2–6 (Definitions & eligibility)	Not present	Adds affordability criteria, principal forgiveness loan, expands eligible recipient (municipalities, interstate/intermunicipal agencies, state agencies, tribal governments, certain nonprofits, and projects for nonpoint/storm water/watershed/reuse)	Significantly widens who can receive assistance and the types of projects eligible beyond publicly owned treatment works.
NAC 445A.764	Standard IUP content	Adds affordability criteria (for principal forgiveness), fee hardship waiver process (ties to NAC 445A.775(6)), and reserves under 33 U.S.C. § § 1383(d)(7), 1383(k), 1384(b)	Aligns IUP with affordability and hardship policies; clarifies federal set-aside and admin reserves.

C. Amend the Environmental Review Process

NAC	Current	Proposed R123-24	Notes
NAC 445A.742–.762	Division prepares EA and FONSI; categorical exclusion review 30 days; Division prepares EIS	Applicant prepares EA; Division issues FONSI/intent for EIS; categorical exclusion review shortened to 15 days; applicant prepares EIS (Division ensures preparation); applicant finalizes EA and responds to significant comments	Shift of EA/EIS preparation responsibilities to applicant; faster categorical exclusion timeline; clarifies public review/mitigation implementation.
NAC 445A.746	30 days; resolve significant comments	15 days; “significant” at Division discretion	Accelerates review; clarifies discretion for significance determinations.

D. Amend the Administrative Fee for Loans

NAC	Current	Proposed R123-24	Notes
NAC 445A.775	Director may charge up to 0.5% (loan origination fee) to be used for administration of fund	Administrator sets loan origination fee (\$1,000 for principal forgiveness/short-term; 0.5% for long-term) and annual service fees (0.5% if bond; 0.75% if no bond), paid annually over life of loan; requires availability of hardship waivers with defined factors	Significant modernization of fee structure; introduces annual service fee schedule and hardship pathway; aligns with DWSRF and Account administration.

E. Align State Regulations with Federal

NAC	Current	Proposed R123-24	Notes
NAC 445A.715 (and others)	Applies to treatment works	Adds pollution control projects	Explicitly adds nonpoint source and related projects.
NAC 445A.765–.767	Generic criteria + Categories I–VI; Department role; applicant letter of intent process	Division role; introduces preapplication via Nevada Infrastructure Financial System; replaces Categories I–VI with Classes A–C + point-based criteria; +25 points for affordability areas; tie-break by higher population	Modern ranking system; integrates affordability; clarifies annual solicitation and bypass logic; more transparent scoring..
NAC 445A.795–.796	“Positive effort policies”; quarterly ≥ \$10k	Aligns to federal equivalency requirements; reporting tied to federal threshold value; adds DBE vendor list usage and delivery schedules to maximize DBE participation	Modernizes disadvantaged business participation and reporting to match federal program standards.

F. Clean Up Outdated Language and Processes

NAC	Current	Proposed R123-24	Notes
NAC 445A.688	References “Act”	Updated to explicitly reference Clean Water Act	Terminology alignment; no functional program change.
NAC 445A.699	References “Act”	Updated to Clean Water Act terminology	Terminology alignment; preserves meaning.
NAC 445A.703	Funding from “fund”	Replaces “fund” with Account	Consistent with AB20, transfer to Division/Administrator and Account terminology.
NAC 445A.730	Refer dispute to Administrator; review by Director	Adds progressive appeal path (informal discussion → informal conference → Administrator → Director; Director’s decision final)	Clear, codified multi-step dispute process with timelines; increases transparency and due process.
NAC 445A.737	General demonstration; detailed lists in repealed sections	Consolidates/updates content: best practicable tech/management, cost-effect analysis, environmental info, cultural resources, public participation; allows PER and environmental review to satisfy plan (Division discretion)	Modernizes and consolidates plan requirements previously scattered across repealed NAC 445A.733–736.
NAC 445A.769	Requires draft revenue program	Removes draft revenue program; bases initial approval on complete LOI, facility plan, environmental document	Streamlines documentation; reduces upfront burden.
NAC 445A.770	Application, final plans/specs, schedule; “recipient” terminology	Adds governing body/board resolution (need, loan request, authorized reps); uses “Account” and “applicant” terminology	Ensures governing approval is explicit; improves audit trail and authorization clarity.

F. Clean Up Outdated Language and Processes

NAC	Current	Proposed R123-24	Notes
NAC 445A.771	Three checklist items (design consistency, discharge, compliance)	Retains compliance check; removes redundant checklist items	Focuses Division review on statutory/regulatory compliance.
NAC 445A.779	Adopts GAO audit standards (older reference)	Adopts GASB pronouncements (unless disapproved within 60 days) and FASB pre-1989; eligible recipients must maintain separate project accounts	Updates to modern public accounting standards; clearer compliance expectations.
NAC 445A.788–.791	O&M + replacement; annual notification; utility finance	Adds capital assets and debt service; strengthens financial management specifics; requires ordinance/resolution adoption before operation	Tightens cost recovery framework and governance; improves long-term sustainability and transparency.
NAC 445A.794	Davis-Bacon (older cite 40 USC 276a); NRS 338 compliance	Updates to 40 USC § 3141 et seq.; clarifies publicly owned projects must comply with NRS 338; Division verifies wage determinations	Statute modernization; clarity on applicability.
NAC 445A.799	First inspection at ~10% complete; subsequent as needed	“As needed” to satisfy federal/state requirements; final inspection retained	Flexibility in oversight cadence; still ensures final compliance check.
NAC 445A.801	Manual required before 90% completion; cap at ≤90% financial assistance until approved	Manual required “if applicable”; drops the ≤90% funding hold	Reduces administrative hold; uses applicability standard—confirm with project type.



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Supplemental Slides

A. Align with 2022 changes to NRS (AB20)

Sections: (new) 6 and 8, (amended) 18, 19, 21, 45, 55, 56, 60

Need for change

- Current regulations do not align with (are more restrictive than) amended NRS 445A (83rd Session)
- Current regulations are not clear about administration of the program

Current approach

Restricts Funding to Municipalities. “Municipality” defined. (NAC 445A.712)

“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.

(Added to NAC by Environmental Comm’n, eff. 9-19-90)—(Substituted in revision for NAC 445.42077)

A. Expanding Eligibility

Proposed approach

For the purposes of NRS 445A.096, the Commission interprets the term “eligible recipient” to include:

- 1. A municipality.*
- 2. An interstate agency.*
- 3. An intermunicipal agency.*
- 4. A state agency.*
- 5. A tribal government.*
- 6. A nonprofit organization which provides assistance to:*
 - a) Owners and operators of small and medium publicly owned treatment works;
or*
 - b) Eligible persons for:*
 - (1) The repair, replacement or removal of a decentralized wastewater treatment system for a household; or*
 - (2) The removal of a decentralized wastewater treatment system for a household and connection into a publicly owned sanitary sewer.*

A. Expanding Eligibility

Proposed approach (NAC 445A. 67569(c)(5))

7. *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 storm water or subsurface drainage water;*
 - c) *A watershed project;*
 - d) *The construction, repair, replacement or removal of a decentralized wastewater treatment system;*
 - e) *The removal of a decentralized wastewater treatment system and connection into a publicly owned sanitary sewer; or*
 - f) *A project for reusing or recycling wastewater, storm water or subsurface drainage water.*

A. Expanding Eligibility

Proposed approach (NAC 445A.716)

NAC 445A.716 ~~[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.~~

~~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.]~~

eligible recipient.

B. Defining “Affordability Criteria”

Sections: (new) 2 and (amended) 37

Need for change

- Current approach does not identify criteria for eligible recipients to qualify for principal forgiveness funding, as required by federal law
- Current approach does not align with Drinking Water State Revolving Fund

Current approach (NAC 445A.764)

1. An intended use plan must be prepared by the Division which describes how all money deposited into the ~~{fund}~~ *Account* will be used. The intended use plan must include a description of... *[list of required contents does not include “affordability criteria or waiver of fees”]*.

B. Defining “Affordability Criteria”

Proposed approach (NAC 445A.764)

1. An intended use plan must be prepared by the Division which describes how all money deposited into the ~~[fund]~~ *Account* will be used. The intended use plan must include a description of:

...

- e) The affordability criteria that is intended to provide principal forgiveness loans to eligible recipients. The Division shall establish the affordability criteria through the public participation process required by NAC 445A.7643.*
- f) The process for the waiver of fees due to hardship pursuant to subsection 6 of NAC 445A.775*

B. Defining “Affordability Criteria”

Proposed approach

“Affordability criteria” means the specific set of residential data which is 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.

C. State Environmental Review Process Changes

Sections: (amended) 24-28, 31, 33-35

Need for Change

Federal changes to the National Environmental Policy Act (NEPA) were enacted in September 2020 to allow more flexibility in the process.

Current regulations require the Division to prepare environmental assessments and Environmental Impact Statements. The borrower is the subject matter expert of their project and should be contracting appropriate professionals to assess the impact their project will have on the environment. The Division should be reviewing that assessment and making a determination of the environmental impact of the project based on that assessment.

C. Environmental Review process changes

Sections: 24 – 28, 31, 33 - 35

Reason for Change

- National Environmental Policy Act was amended September 2020.

What is not changing

- The requirement for an Environmental Review and how long it's effective
- Public notice process, including comment periods and NDEP required response

Timeline Changes

- *Categorical Exclusion public notice from 30 days to 15 days*

C. State Environmental Review Process Changes

Proposed Changes (NAC 445A.742 – 445A.747; 445A.751; 445A.754 – 445A.761)

445A.742 The process of environmental review of a proposed project *set forth in NAC 445A.742 to 445A.762, inclusive*, includes the following steps:

...

3. The ~~[Division]~~ *applicant* shall prepare an environmental assessment . ~~[and subsequently]~~
4. *The Division shall* prepare and issue a finding of no significant impact or a notice of intent ~~[to prepare]~~ *for the preparation* of an environmental impact statement and record of decision.

C. State Environmental Review Process Changes

Proposed Changes (NAC 445A.742 – 445A.747; 445A.751; 445A.754 – 445A.761)

445A.743

1. The Division shall initiate the process of environmental review *set forth in NAC 445A.742 to 445A.762, inclusive*, 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.
...
3. A decision whether to ~~prepare~~ *require the preparation* of 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~~ *the preparation of* an environmental impact statement...

C. State Environmental Review Process Changes

Proposed Changes (NAC 445A.742 – 445A.747; 445A.751; 445A.754 – 445A.761)

445A.746

1. ~~[Thirty]~~ *Fifteen* days must be allowed for review of any categorical exclusion. If no significant comment is received during that period, the process of environmental review set forth in NAC 445A.742 to 445A.762, inclusive, will be considered complete. If any [such] significant comment is received during that period, it must be resolved before the process of environmental review is completed.
2. *For the purposes of this section, the determination of whether a comment is significant is solely within the discretion of the Division.*

C. State Environmental Review Process Changes

Proposed Changes (NAC 445A.742 – 445A.747; 445A.751; 445A.754 – 445A.761)

445A.746

1. ~~[Thirty]~~ *Fifteen* days must be allowed for review of any categorical exclusion. If no significant comment is received during that period, the process of environmental review set forth in NAC 445A.742 to 445A.762, inclusive, will be considered complete. If any [such] significant comment is received during that period, it must be resolved before the process of environmental review is completed.
2. *For the purposes of this section, the determination of whether a comment is significant is solely within the discretion of the Division.*

D. Revising the Administrative Loan Fee

Sections: (amended) 47

Need for Change

The CWSRF must remain sustainable into the future as CWSRF funding is meant to revolve in perpetuity for Nevada's water systems.

When federal grants are no longer available, the program does not have another funding source to rely upon for administration of the long-term management of loans. These fees will provide enough resources to allow the SRF programs to remain viable if federal grants become unavailable.

D. Revising the Administrative Loan Fee

Proposed Changes (NAC 445A.775)

1. ~~[The Director may, with the approval of the Department of Administration,]~~
Except as otherwise provided in subsection 6, the Administrator shall impose and collect a *loan origination fee and service* 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.]~~ *Account in accordance with the provisions of this section.*

D. Revising the Administrative Loan Fee

Proposed Changes (NAC 445A.775)

2. ~~{Money so collected must be used to defray the cost of administering the fund.}~~ *The Administrator shall charge an eligible recipient a loan origination fee of:*
 - a) *If the eligible recipient receives a principal forgiveness loan or a short-term loan, \$1,000.*
 - b) *If the eligible recipient receives a long-term loan, 0.5 percent of the total amount of the long-term loan.*
3. *A loan origination fee required pursuant to subsection 2 is due to the Administrator not later than 30 days after the closing of the loan.*
4. *Except as otherwise provided in subsection 6, in addition to a loan origination fee charged pursuant to subsection 2, the Administrator shall charge an eligible recipient:*
 - a) *If the eligible recipient issues a bond, a service fee equal to 0.5 percent of the original loan amount.*

D. Revising the Administrative Loan Fee

Proposed Changes (NAC 445A.775)

- b) If the eligible recipient does not issue a bond, a service fee equal to 0.75 percent of the original loan amount.*
- 5. Any service fee imposed pursuant to subsection 4 must be paid to the Administrator in equal installments over the life of the loan. Each installment is due to the Administrator not later than January 1 of each year.*
- 6. The Administrator shall make available a waiver of the loan origination fee set forth in subsection 2, the service fee set forth in subsection 4, or both, if the eligible recipient can demonstrate to the Administrator that paying the fee or fees would cause hardship. In determining whether a hardship exists pursuant to the process developed by the Division pursuant to paragraph (f) of subsection 1 of NAC 445A.764, the Administrator shall consider the following factors:*
 - a) Whether user charges of the eligible recipient are sufficient and reasonable in order to operate, maintain and replace the current and future assets of the utility system of the eligible recipient;*

D. Revising the Administrative Loan Fee

Proposed Changes (NAC 445A.775)

- b) The frequency of increases in user charges imposed by the governing body or board, as applicable, of the eligible recipient over the 5 years immediately preceding the date of the application;*
- c) The unrestricted cash maintained by the eligible recipient for the specific utility system;*
- d) An analysis of the ratio of loan fees to the average cost of user charges; and*
- e) Other sources of cash of the eligible recipient, including, without limitation:*
 - 1) Subsidies from other utilities*
 - 2) Transfers from other sources;*
 - 3) Grants;*
 - 4) Proceeds from bonds;*
 - 5) Earnings from interest; and*
 - 6) Donations.*

Administrative fee for loans

Proposed service fee (NAC 445A.775)		
• Disadvantaged systems	No fees	\$0.00
• Short-term loans	\$1,000 loan origination fee	\$1,000
• Long-term loans (borrower issuing a bond)	0.50% loan origination fee Annual fee: 0.50% of original loan amount, divided equally each year over the life of the loan.	\$1,000,000 loan = \$5,000 + \$166.67/ year for a 30-year loan
• Long-term loans (borrower not issuing a bond)	0.50% loan origination fee Annual fee: 0.75% of the original loan amount, divided equally each year over the life of the loan.	\$1,000,000 loan = \$5,000 + \$250/ year for a 30-year loan

D. Revising the Administrative Loan Fee

Borrower Name	EXAMPLE OF SRF LOAN vs MUNICIPAL BOND RATE
	Breakdown per million for 20 Year Equivalency Loan
Closing Date	January 1, 2026
First Payment Date	July 1, 2026
Loan Amount	\$1,000,000.00
Length of Amortization	20
Total Number of Payments	40

EXAMPLE BELOW SHOWS SAVINGS BASED ON MOST RECENT RATES

Rates below from December 11, 2025

	Municipal Bond	SRF Loan	Difference
Interest Rate	4.81%	2.41%	
Interest Paid	\$ 568,061.39	\$ 266,184.36	\$ 301,877.03
Loan Origination Fee		\$ 5,000.00	\$ (5,000.00)
Annual Service Fee*		\$ 5,000.00	\$ (5,000.00)
Principal Paid	\$ 1,000,000.00	\$ 1,000,000.00	\$ -
Total Paid	\$ 1,568,061.39	\$ 1,276,184.36	\$ 291,877.03
TOTAL SAVINGS THROUGH SRF per million (Including Fees)		\$ 291,877.03	29.19%

*Total paid over life of loan

SRF 20 Year rates are calculated weekly using the 20 Year Municipal Bond Rate	4.81%
Equivalency Loan 50% of Bond Rate	2.41%
Non Equivalency Loan 59% of Bond Rate	2.84%

Fees total 1% of the loan amount (10,000 for every 1,000,000). Loan Origination Fee of 0.50% is due in full when the contract is signed. Annual Service Fee is due Jan 1 each year for a total of 0.50% of the loan divided up into 20 payments over the life of the loan.

Loan Origination Fee	0.50%	\$ 5,000.00
Annual Service Fee*	0.50%	\$ 5,000.00
	1.00%	\$ 10,000.00

D. Administrative fee for loans

Small Business Impact

Small Business Impact

Small businesses would make up a small percentage of the SRF program

- SRF primarily funds public entities but can also fund privately owned community water systems and tax-exempt entities.
- Borrowers are established water systems for the purpose of providing drinking water to residents, visitors, and businesses.

Reason for no significant economic burden

- SRF is required to charge below market interest rates than the public market
- SRF market is a public market generally not accessible to private borrowers, making the loan already economically supportive
- Some borrowers may qualify as disadvantaged

E. Aligning with federal regulations

Sections: (new) 8 and 11, (amended) 17, 18, 21, 37-40, 57, 58

Need for Change

The federal Clean Water Act was amended over the last 10 years to include programmatic changes to the CWSRF.

The Clean Water Act only requires Treatment Works Projects to be ranked on a priority list. Other eligible projects of the CWSRF are not required to be ranked on a list. This clean-up will increase efficiency in Nevada and remove unnecessary processes.

The Clean Water Act only requires some federal grant conditions to apply to an amount equivalent to the grant amount. Not all projects from the CWSRF must comply with all federal grant conditions. These changes allow for flexibility and a reduction of the administrative burden on some projects.

E. Aligning with federal regulations

Proposed Changes (NAC 445A.715-445A.716)

NAC 445A.715 “Operation and maintenance” means those activities required to ensure the dependable and economical functioning of treatment works ~~[.]~~ *and pollution control projects.*

NAC 445A.716 ~~[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. 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.]~~ *eligible recipient.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.728)

1. The primary purpose of the ~~{fund}~~ *Account* 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 ~~{-}~~ *control projects*.
2. The ~~{fund}~~ *Account* 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 or the projected useful life of the treatment works or pollution control projects, as applicable;*
 - b) Guarantee, *or purchase insurance for*, a municipal obligation ~~{or purchase insurance for such an obligation if required}~~, including, without limitation, to improve access to credit or reduce the rate of interest paid by the municipality; ~~{or}~~

E. Aligning with federal regulations

Proposed Changes (NAC 445A.728)

- c) ~~[Refinance]~~ *Buy or refinance a [municipal] debt obligation [for an eligible wastewater facility] of a municipality or intermunicipal agency, or an interstate agency of which this State is a member* 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 ~~[.]~~, *and sections 2 to 11, inclusive, of this regulation; or*
- d) *Provide a loan guarantee for a similar revolving fund established by a municipality or intermunicipal agency.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

1. An intended use plan must be prepared by the Division which describes how all money deposited into the ~~{fund}~~ *Account* will be used. The intended use plan must include a description of...
 - d) The criteria and method used for selecting treatment works or pollution control projects to ~~{be funded as eligible activities for nonpoint sources.}~~ *receive financial assistance.*
 - e) *The affordability criteria that is intended to provide principal forgiveness loans to eligible recipients. The Division shall establish the affordability criteria through the public participation process required by NAC 445A.7643.*
 - f) *The process for the waiver of fees due to hardship pursuant to subsection 6 of 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 *Clean Water* Act.

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

3. *In developing the intended use plan, the Division:*
 - a) *Shall establish the reserves required or authorized by the Clean Water Act, including, without limitation, an amount required to carry out water quality management planning in accordance with the provisions of 33 U.S.C. § 1384(b).*
 - b) *May reserve:*
 - 1) *A portion of the State's grant awards pursuant to 33 U.S.C. § 1383(d)(7) to administer the Account and to conduct activities under the Clean Water Act.*
 - 2) *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 utilities that own and manage treatment works.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.765 ...

2. In establishing the priority of projects ~~[,]~~ *for the construction of treatment works*, the Division shall ~~[also]~~ :
 - a) *At least annually, solicit from utilities that own and manage treatment works:*
 - 1) *Proposals in the form of preapplications for projects for the construction of treatment works; and*
 - 2) *Requests from each applicant whose project for the construction of treatment works is currently on the priority list to have that project included on the next priority list.*
 - b) *In addition to satisfying the requirements for the design of the list and priority system set forth in subsection 1,* 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.

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.765 ...

3. *A proposal in the form of a preapplication for a project for the construction of treatment works or a request by an applicant to have a project included on the next priority list must be submitted to the Division:*
 - a) *Electronically, through the Nevada Infrastructure Financial System at the Internet address <https://ndepifs.ndep.nv.gov/>; or*
 - b) *By any other means authorized by the Division.*
4. *If an applicant whose project for the construction of treatment works is currently on the priority list fails to submit a request to have that project included on the next priority list pursuant to subsections 2 and 3, the project is subject to exclusion from the next priority list.*
5. The priority list must include an estimate of the eligible cost of each project.

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.7655

1. After the priority list is finalized by the Division, the Division shall notify each applicant on the priority list of the ranking of projects ~~[.]~~ *for the construction of treatment works.*
2. After receiving the notification ~~[letter]~~ pursuant to subsection 1 ~~[.]~~ *and once the project is ready to receive financial assistance*, each applicant shall file with the Division a letter of intent ~~[, indicating its intentions to either:~~
 - ~~a) (a) Proceed with an application for financial assistance for proposed projects; or~~
 - ~~b) (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.]~~ *pursuant to section 9 of this regulation.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767

1. A priority system must be used to rank projects for the construction of treatment works that are considered eligible for financial assistance from the [fund.] Account.
2. The priority system must: ...
 - ~~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:~~

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767(2)(d)

- ~~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.]~~

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767

3. *The Division shall place each project for the construction of treatment works into one of the following three classes and assign to each project the points as indicated and applicable:*
 - a) *Class A -- Projects for the construction of treatment works which are intended to benefit public health or the environment, or both, including:*
 - 1) *Projects necessary to eliminate public health hazards in unsewered communities which are documented through a finding of violation or an official action by a public health authority -- 10 points.*
 - 2) *Projects necessary to correct existing documented violations of standards for surface water quality -- 8 points.*
 - 3) *Projects necessary to correct documented violations of limitations specified by permits for discharge -- 6 points.*
 - 4) *Projects necessary to eliminate or prevent interference with an existing beneficial use of groundwater where it has been determined that such an interference exists -- 4 points.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767

- 5) Any other project that has demonstrated violations of compliance or is proactively addressing a public health or environmental impact that is outlined in the intended use plan -- 1 point.*
- b) Class B -- Projects for the construction of treatment works which are necessary to increase reliability or sustainability, including:*
 - 1) Projects necessary to provide a degree of treatment beyond standards for water quality or requirements for permits -- 10 points.*
 - 2) Interceptors in sewer communities, pumping stations, correction of infiltration inflow, correction of combined sewer overflows, rehabilitation of sewer systems or distribution of reclaimed water -- 8 points.*
 - 3) Facility flow or loading as the percentage of design capacity exceeds 85 percent -- 6 points.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767(3)(b)

- 4) Facility flow or loading as the percentage of design capacity exceeds 75 percent but does not exceed 85 percent -- 4 points.*
- 5) Any other project that addresses reliability or sustainability that is outlined in the intended use plan -- 1 point.*
- c) Class C -- Other projects for the construction of treatment works, including:*
 - 1) Projects providing wastewater treatment and collection systems in existing unsewered communities with no public health hazards or violations of water standards -- 10 points.*
 - 2) Projects providing wastewater collection systems to unsewered portions of sewer communities -- 10 points.*
 - 3) All other projects for the construction of treatment works -- 5 points.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767

4. *Regardless of the class in which a project for the construction of treatment works is placed and in addition to the criteria applicable to the project pursuant to paragraph (c) of subsection 2, the Division shall assign additional points to the project as indicated for each of the following criteria:*
 - a) *Five points for any utility that owns and manages a treatment works which has mapped its facilities and analyzed:*
 - 1) *The risks of failure in its system;*
 - 2) *The expected dates for renewing and replacing its facilities and equipment; and*
 - 3) *The sources and amounts of money needed to finance the operation, maintenance and capital expenditures of its system.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767(4)

- b) Five points for any utility that owns and manages a treatment works which has developed a rate structure that is appropriate to build, operate and maintain its system.*
- c) Five points for any utility that owns and manages a treatment works which has specifically allocated money for the rehabilitation and replacement of aging or deteriorating facilities and equipment.*
- 5. The Division shall rank projects for the construction of treatment works 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 each class according to the point total each project has been assigned pursuant to the ranking system set forth in subsections 3 and 4.*
- 6. The Division shall not move a project for the construction of treatment works from one class to another based on the ranking the project receives from the total points within each class.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.764 – 445A.767)

445A.767

- 7. If the Division determines that the project for the construction of treatment works will serve an area that meets affordability criteria as outlined in the intended use plan, the Division shall assign an additional 25 points to the total score of that project.*
- 8. If two or more projects for the construction of treatment works within the same class have the same final rank number, the project that is associated with the service area with the highest population shall be deemed to be ranked higher within the class.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.795 – 445A.796)

445A.795

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

...

4. ~~[A]~~ *An eligible* 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.

E. Aligning with federal regulations

Proposed Changes (NAC 445A.795 – 445A.796)

445A.796

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.*

E. Aligning with federal regulations

Proposed Changes (NAC 445A.795 – 445A.796)

445A.796

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 this section.*