

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #1

FILED
AUG 11 1987
12:00 PM
STATE OF WEST VIRGINIA

NOTICE OF PUBLIC HEARING ON A PROPOSED RULE

AGENCY: Department of Natural Resources TITLE NUMBER: 47

RULE TYPE: Procedural; CITE AUTHORITY W. Va. Code §20-5A-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 33A

TITLE OF RULE BEING AMENDED: _____

State Advance Assistance Program for Construction Grants

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

DATE OF PUBLIC HEARING: Tuesday, August 4, 1987 TIME: 7:00 p.m.

LOCATION OF PUBLIC HEARING: Chief's Conference Room

1201 Greenbrier Street

Charleston, West Virginia

COMMENTS LIMITED TO: ORAL , WRITTEN , BOTH

COMMENTS MAY ALSO BE MAILED TO THE FOLLOWING ADDRESS: Please see the
following page.

The Department requests that persons wishing to make comments at the hearing make an effort to submit written comments in order to facilitate the review of these comments.

The issues to be heard shall be limited to the proposed rule.

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

David W. Robinson

WEST VIRGINIA
SECRETARY OF STATE
KEN HECHLER
ADMINISTRATIVE LAW DIVISION

Form #2

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SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Department of Natural Resources TITLE NUMBER: 47

RULE TYPE: Procedural; CITE AUTHORITY W. Va. Code §20-5A-4

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 33A

TITLE OF RULE BEING AMENDED: _____

State Advance Assistance Program for Construction Grants

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

~~NOTICE OF A PUBLIC HEARING~~ A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON August 10, 1987 AT 4:30 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

Mr. Dennis Treacy or Mr. Jeffrey Herrold
Director's Office of Regulatory Affairs
WV Department of Natural Resources
1800 Washington Street, East
Charleston, West Virginia 25305

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

David W. Robinson

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

FISCAL NOTE FOR PROPOSED RULES

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Rule Title: State Advance Assistance Program for Construction Grants
 Type of Rule: Legislative Interpretive Procedural
 Agency: West Virginia Department of Natural Resources
 Address: 1800 Washington Street East, Charleston, West Virginia 25305

1. Effect of Proposed Rule (Estimated Total Cost)	Increase \$	ANNUAL		FISCAL YEAR	
		Decrease \$	Current \$	Next \$	Thereafter \$
Personal Services					
Current Expense					
Repairs and Alterations					NO CHANGE
Equipment					
Other					

2. Explanation of Above Estimates:

The proposed rule will have no fiscal impact upon the Department's current administration of State Advance Assistance Program.

3. Objectives of These Rules:

The proposed rules will add a new section concerning award adjustments to the Department's Series 33A construction grants regulations.

4. Explanation of Overall Economic Impact of Proposed Rule.

- A. Economic Impact on State Government: No Impact
- B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens: No Impact
- C. Economic Impact on Citizens/Public at Large: No Impact

Date: 6/30/87


 David W. Robinson
 Chief

PREAMBLE FOR PROPOSED AMENDMENTS TO PROCEDURAL RULES
STATE ADVANCE ASSISTANCE PROGRAM FOR CONSTRUCTION GRANTS

REGULATIONS: Department of Natural Resources, Series 33A,
State Advance Assistance Program for Construction Grants

AUTHORITY: West Virginia Code, Chapter 20, Article 5A,
Section 4

ACTION: Proposed Rules; Notice of Public Hearing and
Comment Periods

DATES: A public hearing on this proposal will be held at
7:00 p.m. on Tuesday, August 4, 1987 in the Chief's
Conference Room, 1201 Greenbrier Street, Charleston, West
Virginia. Written comments will be received until 4:30 p.m.
on Monday, August 10, 1987.

SUMMARY: The Department is proposing to amend its
procedural regulations governing the State's advance
assistance program for construction grants. This program is
explained in detail in Section 1.1 of the Series 33A
regulations. Today's proposal centers upon adding a new
section (Section 11) concerning adjustments of advance
awards. In addition, typographical errors in the current
regulations have been corrected, the contents of several
sections have been rearranged to increase clarity, and the
program forms and other materials in Appendix I have been
updated.

*10 TITLE 47
 PROCEDURAL RULES
 DEPARTMENT OF NATURAL RESOURCES

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 SECRETARY OF STATE

SERIES 33A
 STATE ADVANCE ASSISTANCE PROGRAM FOR CONSTRUCTION GRANTS

*09 §47-33A-1. General.

1.1. Scope. -- These regulations establish procedural rules for the State's advance assistance program for construction grants. The chief is granted authority to administer such a program in West Virginia Code §20-5A-4.

1.1.1. The purpose of State assistance available under this program is to assist qualifying small communities which cannot proceed on their own due to financial constraints in meeting the enforceable requirements of the federal Clean Water Act, particularly, applicable National Pollutant Discharge Elimination System (NPDES) permit requirements.

1.1.2. Pursuant to the federal Clean Water Act as amended in 1984 by the Municipal Wastewater Treatment Grant Amendments of 1981, P.L. 97-117, the United States Environmental Protection Agency's construction grants program for municipal wastewater treatment facilities was modified by terminating the federal grant program for the facility planning (Step 1) and design (Step 2) phases of the program. The federal program, however, does provide for state administration and implementation of an advance of allowance program to potential federal grant applicants for generally the same work as previously covered by Step 1 and 2.

1.1.3. The federal program will continue to provide Step 3 or Step 2/3 grants for construction of the treatment works. ~~The Step-3 federal grant will contain an allowance for facility planning and design~~ The federal grant may contain an allowance for facility planning or design which may be advanced to the municipality by the State through this advance of allowance program. When an advance is made, the amount of the advance of allowance will be deducted from the allowance contained in ~~Step-3~~ the federal grant.

1.1.4. This program, mandated by Congress, requires the State to:

1.1.4.a. Set aside a reserve of up to ten percent (10%) of the State's annual construction grants

program appropriation (40 C.F.R. §35.2020(e)).

1.1.4.b. Assist eligible municipalities, including other governmental entities such as public service districts, by providing advances of allowance for Step 1 or Step 2 work (40 C.F.R. §35.2025).

1.1.4.c. Award advances of allowance calculated as a percentage of eligible allowable building cost estimates of Step 3 and ~~Step 4~~ Step 2/3 projects (40 C.F.R. §35.2025).

1.1.5. After application by the State, the Regional Administrator will award a grant to the State in the amount of the reserve established under 40 C.F.R. §35.2020(e) so that the State can provide ~~advance-allowances~~ advances of allowance to eligible potential grant applicants for facilities planning or project design assistance (40 C.F.R. §35.2025).

1.1.6. ~~According to 40-C.F.R.--§35-2025(b)(4)--the allowance--is--based--on--Appendix--A--of--these--regulations--and--represents--an--amount--of--the--Federal--grant--which--the--United--States--Environmental--Protection--Agency--(hereafter--referred--to--as--EPA)--considers--adequate--to--perform--the--necessary--facilities--planning--and--design--work--associated--with--a--project.---Such---allowances---is---based---on---the---project's--estimated--building--cost. The allowance is based on Appendix A of these regulations and represents a grant amount which the EPA considers adequate to perform the necessary facilities planning or design work which are associated with a project. Such allowance is based on the project's estimated allowable building cost.~~

1.1.7. The advance of allowance assistance program consists of the following elements:

1.1.7.a. Establishing-----a-----municipalities Determination of a municipality's fundability from the State priority rating system and list;

1.1.7.b. Review of applications for facilities planning assistance-and/or or design assistance (DWR-CG-1) from eligible municipalities.

1.1.7.c. Awarding of assistance and the execution of an advance assistance agreement (DWR-CG-2) which includes the terms and conditions of assistance;

1.1.7.d. Performance of the work by the municipality and the filing of a request for payment

(DWR-CG-3) at appropriate intervals established in the advance assistance agreement and these regulations;

1.1.7.e. Pursuit of remedies available to the State in the event of nonperformance or inadequate performance as provided in the advance assistance agreement; and

1.1.7.f. Deduction from the allowance ~~from~~ of the Step 3 or Step 2/3 federal grant when the project proceeds to construction under the program.

1.2. Authority. -- West Virginia Code §20-5A-4.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Incorporation by Reference. Whenever federal statutes or regulations are incorporated into these regulations, the reference is to the federal statute or regulation in effect on June 30, 1987.

*09 §47-33A-2. Definitions.

~~Unless the context in which used clearly requires a different meaning, as in these regulations the following words and terms mean:~~ Unless the context dictates otherwise, the following words and their meanings as used in these regulations are defined below.

2.1. "Act" means the Clean Water Act (33 U.S.C. §1251 et seq.).

2.2. "Advance of Allowance" means that portion of the allowance which is given prior to the Step 2/3 or Step 3 grant to communities with cash flow problems to enable them to proceed with the development of facilities plans to project designs.

2.3. "Allowance" means an amount of money based on allowable building costs and calculated from the tables in Appendix A of these regulations. An allowance represents the sum of money an applicant may receive as assistance in conducting either Step 1 or Step 2 work or both. Although not a reimbursement for costs incurred but rather an "Allowance", these funds will help reduce the burden of expenses incurred by the municipality during planning or design.

2.4. "Alternative Technology" means proven

wastewater treatment processes and techniques which provide for the reclaiming and reuse of water, productive recycling of wastewater constituents, eliminating the discharge of pollutants, or recovering of energy. Specifically, Specific examples of alternative technology include: land application of effluent and sludge; aquifer recharge; aquiculture; direct reuse (nonpotable); horticulture; revegetation of disturbed land; containment ponds; sludge composting and drying prior to land application; self-sustaining incineration; methane recovery; co-disposal of sludge and solid waste; and individual and on-site systems.

2.5. "Alternative to Conventional Treatment Works for a Small Community" means treatment works in a small community using innovative or alternative technology.

2.6. "Architectural or Engineering Services" means consultation, investigation, reporting, and design services offered within the scope of the practice of architecture or professional engineering as defined by the laws of the State of West Virginia.

2.7. "Best Practicable Waste Treatment Technology (BPWTT)" means the cost-effective technology that can treat wastewater, combined sewer overflows, non-excessive infiltration and inflow, and residuals in publicly owned or individual wastewater treatment works to meet the applicable provisions of:

2.7.1. 40 C.F.R. Part 133 (Secondary Treatment of Wastewater);

2.7.2. ~~40 C.F.R. §122.62(d)~~ 40 C.F.R. §122.44(d) (Water Quality Standards and State Requirements); and

2.7.3. 41 F.R. §6190 (Alternative Waste Management Techniques for Best Practicable Waste Treatment) (treatment and discharge, land application techniques and utilization practices, and reuse).

2.8. "Branch Head" means the head of the Construction Grants Branch of the Division of Water Resources of the West Virginia Department of Natural Resources.

2.9. "Building" means the erection, acquisition, alteration, remodeling, improvement, or extension of treatment works.

2.10. "Chief" means the chief of the Division of Water Resources of the the West Virginia Department of Natural Resources, or his authorized representative.

2.11. "Collector Sewer" means the common lateral sewers primarily installed to receive wastewaters directly from facilities which convey wastewater for individual systems, or from private property, and which include service "Y" connections designed for connection with those facilities including:

2.11.1. Crossover sewers which are used to connect more than one property on one side of a major street, road, or highway to a lateral sewer on the other side when more cost-effective than parallel sewers; and

2.11.2. Pumping units and pressurized lines serving individual structures or groups of structures when such units are cost-effective and are owned and maintained by the grantee.

2.11.3. This definition excludes other facilities which convey wastewater from individual structures, from private property to the public lateral sewer or its equivalent, and ~~also--excludes~~ facilities associated with alternatives to conventional treatment works in small communities.

2.12. "Combined Sewer" means a sewer that is designed as both a sanitary sewer and a storm sewer.

2.13. "Compatible Wastewater" means wastewater that is provided by an industrial user, has a pollutant strength and other characteristics similar to those of domestic wastewater, and can be efficiently and effectively transported and treated with domestic wastewater. This definition includes wastewater from sanitary conveniences at an industrial user's facility.

2.14. "Complete Waste Treatment System" means a complete waste treatment system that consists of all the treatment works necessary to meet the requirements in Title 3 of the Act, involving:

2.14.1. The transport of wastewater from individual homes or buildings to the plant or facility where treatment of the wastewater is accomplished;

2.14.2. The treatment of wastewater to remove pollutants; and

2.14.3. The ultimate disposal, including recycling or reuse, of the treated wastewater and residues which result from the treatment process.

2.15. "Construction" means any one or more of the following:

2.15.1. Preliminary planning to determine the feasibility of treatment works.

2.15.2. Engineering, architectural, legal, fiscal, or economic investigations or studies.

2.15.3. Surveys, designs, plans, working drawings, specifications, or procedures.

2.15.4. Field testing of innovative or alternative wastewater treatment processes and techniques (excluding operation and maintenance) meeting guidelines promulgated under Section 304(d)(3) of the Act or other necessary actions.

2.15.5. Erection, building, acquisition, alteration, remodeling, improvement, or extension of treatment works.

2.15.6. The inspection or supervision of any of the foregoing items.

2.16. "Conventional Technology" means wastewater treatment processes and techniques involving the treatment of wastewater at a centralized treatment plant by means of biological or physical/chemical unit processes followed by direct point sources discharges to surface waters.

2.17. "Domestic Wastewater" means wastewater of the type commonly introduced into a treatment works by residential users.

2.18. "Enforceable Requirements of the Act" means those conditions or limitation of Section 402 and 404 permits which, if violated, could result in the issuance of a compliance order or initiation of a civil or criminal action under Section 309 of the Act or under the State Water Pollution Control Act, West Virginia Code §20-5A-1 et seq. If a permit has not been issued, the term shall include any requirement which, in the chief's judgement, would include be included in the permit when issued. Where a permit does not apply, the term shall include any requirements which the chief determines are necessary for the best practicable waste treatment technology (BPWTT) to meet applicable water

treatment standards.

2.19. "EPA" means the United States Environmental Protection Agency.

2.20. "Excessive Infiltration/Inflow" means the quantities of infiltration/inflow greater than the flows identified in Section--5-2-2-d Section 5.3.2.d of these regulations and which can be economically eliminated from a sewer system as determined in a cost-effectiveness analysis that compares the costs for correcting the infiltration/inflow conditions to the total cost for transportation and treatment of the infiltration/inflow.

2.21. "Field Testing" means practical and generally small-scale testing of innovative or alternative technologies for verifying performance and/or or refining design parameters not sufficiently tested to resolve technical uncertainties which prevent the funding of a promising improvement in innovative or alternative treatment technology.

2.22. "Individual Systems" means privately owned alternatives or innovative wastewater treatment works (including dual waterless/gray water systems) serving one or more principal residences or small commercial establishments. Normally these are onsite systems with localized treatment and disposal of wastewater but may be systems utilizing small diameter gravity, pressure, or vacuum sewers conveying treated or partially treated wastewater. These systems can also include small diameter gravity sewers carrying raw wastewater from cluster systems.

2.23. "Industrial User" means any nongovernmental, nonresidential user of a publicly owned treatment works which is identified in the Standard Industrial Classification Manual of the federal Office of Management and Budget under one of the following divisions:

- Division A. Agriculture, Forestry, and Fishing
- Division B. Mining
- Division D. Manufacturing
- Division E. Transportation, Communications,
Electric, Gas, and Sanitary Services
- Division I. Services

2.24. "Infiltration" means water other than wastewater that enters a sewer system (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include and is distinguished from

inflow.

2.25. "Inflow" means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include and is distinguished from infiltration.

2.26. "Initiation of Operation" means the date specified by the grantee on which use of the project begins for the purposes that it was planned, designed, and built.

2.27. "Innovative Technology" means developed wastewater treatment processes and techniques which have not been fully proven under the circumstances of their contemplated use and which represent a significant advancement over the state of the art in terms of significant reduction in life cycle cost or significant environmental benefits through the reclaiming and reuse of water, otherwise eliminating the discharge of pollutants, utilizing recycling techniques such as land treatment, more efficient use of energy and resources, improved or new methods of waste treatment management for combined municipal and industrial systems, or the confined disposal of pollutants so that they will not migrate to cause water or other environmental pollution.

2.28. "Interceptor Sewers" means a sewer which is designed for one or more of the following purposes:

2.28.1. To intercept wastewater from a collector sewer and convey such wastes directly to a treatment facility or another interceptor.

2.28.2. To replace an existing wastewater treatment facility and transport the wastes to an adjoining collector sewer or interceptor sewer for conveyance to a treatment plant.

2.28.3. To transport wastewater from one or more municipal collector sewers to another municipality or to a regional plant for treatment.

2.28.4. To intercept an existing major discharge of raw or inadequately treated wastewater for transport directly to another interceptor or to a treatment plant.

2.29. "Intermunicipal Agreement" means an agreement between municipalities setting the terms and conditions under which one municipality renders services to one or more other municipalities.

2.30. "Interstate Agency" means an agency of two or more states established under an agreement or compact approved by the Congress, or any other agency of two or more states, having substantial powers or duties pertaining to the control of water pollution.

2.31. "Municipality" means a city, town, county, public service district, sanitary district, or other public body (including an intermunicipal agency of two or more of the foregoing entities) created under State law having jurisdiction over disposal of sewage, industrial wastes, or other waste, or a designated agency under Section 208 of the Act.

2.32. "Regional Administrator" means the administrator of EPA Region III, or his authorized representative.

2.33. "Sanitary Sewers" means a conduit intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface water that are not intentionally admitted.

2.34. "Short Life Cycle Components" means components of a treatment works that has expected life cycle of seven to ten (7-10) years.

2.35. "Small Community"

2.35.1. For purposes of general assistance, a small community is defined to be a municipality of twenty-five thousand (25,000) population or less.

2.35.2. For purposes of small community alternative funds, a small community is defined to be a municipality of three thousand five hundred (3,500) or smaller or a less densely populated portion of a larger community.

2.36. "Step 1" means the preparation of the facility plan and other related requirements.

2.37. "Step 2" means the design of the project and other related requirements.

2.38. "Step 2/3" means the preparation of design

plans, specifications, and other related requirements under the EPA allowance program and the construction of the project under the EPA grant program.

2.39. "Step 3" means the construction of the project and other related requirements.

2.40. "State Project Priority List" means the State's annual project priority list, which is an ordered listing of projects for which the State expects federal financial assistance.

2.41. "State Agency" means the Division of Water Resources of the West Virginia Department of Natural Resources.

2.42. "Subagreement" means a contract between the recipient municipality and its architect/engineer (A/E) resulting from an agreement between the State of West Virginia and the municipality by virtue of which the advance of allowance assistance was provided.

2.43. "Treatment Works" means any ~~devices--and systems~~ device or system for the storage, treatment, recycling, and reclamation of municipal sewage, domestic sewage, or liquid industrial waste used to implement Section 201 of the Act, or necessary to recycle or reuse water at the most economical cost over the design life of the works.

2.44. "Treatment Works Phase or Segment" means a ~~treatment--works--phase--or--segment--may-be~~ any substantial portion of a facility and its interceptors described in a facilities plan under ~~Section-5-2-2~~ Section 5.3.2 of these regulations which can be identified as a subagreement or discrete subitem. Multiple subagreements under a project shall not be considered to be segments or phases. Completion of the building of a treatment works phase or segment may, but need not in and of itself, result in an operable treatment works.

2.45. "Useful Life" means the period during which a treatment works operates. "Useful life" does not mean "design life," which is the period during which a treatment works is planned and designed to be operated.

2.46. "User Charge" means a charge levied on users of a treatment works for the user's proportionate share of the cost of operation and maintenance (including replacement) of such works under Sections 204(b)(1)(A) and 201(h)(2) of the Act.

2.47. "Value Engineering" means a specialized cost control technique which uses a systematic and creative approach to identify and to focus on unnecessarily high cost in a project in order to arrive at a cost saving without sacrificing the reliability or efficiency of the project.

*09 §47-33A-3. State Priority System and Project Priority List.

3.1. State Priority System. The State priority system is based on EPA regulations (40 C.F.R. §35.2015) and is established yearly. It is designed to facilitate advances of allowance to municipalities in order to achieve subsequent compliance with federal requirements pertaining to construction grants project eligibility.

3.1.1. The priority system includes the following general elements:

- 3.1.1.a. Administration.
- 3.1.1.b. Management.
- 3.1.1.c. Public participation.
- 3.1.1.d. Ranking methodology.
- 3.1.1.e. Rating methodology.

3.1.2. The administration and management elements include:

3.1.2.a. Financial review which evaluates financial affordability;

3.1.2.b. Alternative systems bypass which allows the maximum utilization of innovative, alternative, and small community alternative set asides; and

3.1.3.c. General bypass which can remove projects which fail to proceed in accordance with approved schedules.

3.1.3. Public participation elements include:

3.1.3.a. Annual public hearing to receive comments from the general public concerning funding eligibility of municipalities; and

3.1.3.b. The State agency responsiveness summary.

3.1.4. The priority ranking and rating methodology includes an evaluation of the following criteria:

3.1.4.a. The impairment of classified water uses resulting from existing municipal pollutants discharges;

3.1.4.b. The extent of surface or ground water use, restoration, or public health improvement resulting from the reduction in pollution; and

3.1.4.c. The need to complete a waste treatment system for which a grant for a phase or segment was previously awarded.

3.2. State Priority List. The list is produced according to the state priority system pursuant to federal requirements and represents an ordered listing of the projects eligible for State financial assistance. The priority list contains two portions: the fundable portion consisting of those projects anticipated to be funded from current allotment and the planning portion consisting of projects anticipated to be funded from future authorized allotments. The list also includes an estimate of the total project cost (step specific) and the eligible advance of allowance funding allowable.

***09 §47-33A-4. General Advance of Allowance Assistance Application and Award Procedures.**

4.1. General. Pursuant to the Act, the State may provide advances of allowance only to small communities which would otherwise be unable to complete an application for a Step 2/3 or Step 3 grant. The advance of allowance may not exceed the federal share of the estimate of allowance provided by the EPA construction grants program in accordance with Appendix A of these regulations. Applicants for Step 1 and Step 2 advance assistance shall submit applications to the State on the approved State advance assistance application form.

4.2. Basic Application. In addition to application requirements contained in ~~Sections 5.4 and 7.4~~ Sections 5 and 6 of these regulations, all ~~applications~~ applicants shall:

4.2.1. Demonstrate the legal, institutional, managerial, and financial capability to ensure adequate building, operation, maintenance, and replacement of the treatment works throughout the applicant's jurisdiction;

4.2.2. Provide evidence of ability to finance local cost;

4.2.3. Provide certification that the applicant has not violated any federal, State, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practice relating to or in connection with facilities planning or design work on a wastewater treatment works project.

~~4.3. Limitations on Award. Before awarding advance assistance for any project, the chief shall determine that the applicant and the applicant's project have met all of the applicable procedural requirements of Section 3 and Sections 4.1 through 9.3 of these regulations.~~

~~4.4. Cost Incurred Prior to Award. Work may proceed prior to award of an advance assistance in exceptional cases. In order for work performed on a project prior to advance award to be eligible for assistance, the recipient must have complied with the following requirements:~~

~~4.4.1. Recipient must have a preapplication meeting with the Construction Grants branch head to detail scope proposed project.~~

~~4.4.2. Recipient must make written request to proceed with work prior to incurring cost.~~

~~4.4.3. Scope of project cannot conflict with applicable federal or grant regulations.~~

~~4.4.4. Project is expected to proceed to construction within two to three (2-3) years advance award.~~

4.3. Review Prior to Award. Before awarding an advance of allowance for any project, the chief shall determine that the applicant and the applicant's project have met all of the applicable procedural requirements of these regulations.

4.4. Work Performed Prior to Award. Work may proceed prior to the awarding of an advance of allowance in exceptional cases. In order for work performed on a project prior to the awarding of an advance of allowance to be eligible for assistance, the recipient must demonstrate that:

4.4.1. The recipient has held a pre-application meeting with the branch head to detail the scope of the project;

4.4.2. Prior to incurring any cost, the recipient has made a written request to the chief in order to proceed with work;

4.4.3. The scope of the project does not conflict with applicable federal or State regulations; and

4.4.4. The project is expected to proceed to construction within two to three (2-3) years of the awarding of an advance of allowance.

4.4.5. Work cannot proceed until the recipient has received written State agency confirmation of prior approval.

4.5. **Water Quality Management Plans.** The application shall be consistent with the approved element(s) of any applicable water quality management (WQM) plan approved under Section 208 or Section 303(e) of the Act; and the applicant shall be the wastewater management agency designated in any WQM plan certified by the Governor and approved by the EPA Regional Administrator.

4.6. **Effect of Approval or Certification of Documents.** Review or approval of facilities plans, design drawings and specifications, or other documents by or for the State is for program administrative purposes only and does not relieve the recipient of his responsibility to properly plan, design, build, and effectively operate, and maintain the treatment works described in the advance assistance agreement as required under law, regulations, permits, and good management practices. The State is not responsible for increased building costs resulting from defects in the plans, design drawings and specifications, or other subagreement documents.

*09 §47-33A-5. Facilities Planning Advance of Allowance.

~~5.1. Contents of Facilities Planning Application for Advance Assistance. An application for a facility plan advance assistance shall be submitted on the State application form.~~

5.1. Facilities Planning. The final product of a facility planning advance of allowance will be an approved facility plan composed of the elements contained in Section 5.2 of these regulations.

5.2. Contents of Applications for Facilities Planning Advance of Allowance Assistance. An application for facility planning advance of allowance assistance shall be

submitted on application form DWR-CG-1.

~~5-4-4-~~ 5.2.1. The application must include the following:

~~5-4-4-a-~~ 5.2.1.a. The scope of the proposed planning area;

~~5-4-4-b-~~ 5.2.1.b. A copy of documentation providing evidence of municipal status;

~~5-4-4-c-~~ 5.2.1.c. The nature and scope of the proposed Step 1 project and public participation program, including a schedule for the completion of specific tasks;

~~5-4-4-d-~~ 5.2.1.d. An itemized description of the estimated cost of the project;

~~5-4-4-e-~~ 5.2.1.e. Proposed Subagreements; and

~~5-4-4-f-~~ 5.2.1.f. Required comments or approval of relevant State and local agencies including clearinghouse requirements.

~~5-2-~~ 5.3. Contents of Facilities Plan.

~~5-2-4-~~ 5.3.1. Facilities planning consists of those necessary plans and studies which relate to treatment works needed to comply with enforceable requirements of the Act. Facilities planning will investigate the need for proposed facilities. Through a systematic evaluation of alternatives that are feasible in light of the unique demographic, topographic, hydrologic, and institutional characteristics of the area, the facilities plan will demonstrate that, except for innovative and alternative technology under §6 Section 5.4 of these regulations, the selected alternative is cost-effective (i.e., is the most economical means of meeting the applicable federal and State requirements and water quality standards or public health requirements over the design life of the facility while recognizing environmental and other nonmonetary considerations). For sewerage communities with a population of ten thousand (10,000) or less, consideration must be given to at least one of the following: facultative ponds, trickling filters, oxidation ditches, or overland flow land treatment. For unsewered communities of ten thousand (10,000) or less, consideration must be given to onsite systems. The facilities plan will also demonstrate that the selected alternative is implementable from legal, institutional, financial, and management standpoints.

5-2-2-5.3.2. Facilities Plan Elements. A completed facilities plan must include the following elements:

5-2-2-a-5.3.2.a. A description of both the proposed treatment works and the complete waste treatment system of which it is a part.

5-2-2-b-5.3.2.b. A description of the best practicable wastewater treatment technology (BPWT).

5-2-2-e-5.3.2.c. A cost-effective 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. The planning period for the cost-effectiveness analysis shall be twenty (20) years. The monetary costs to be considered must include the present worth or equivalent annual value of all capital costs and operation and maintenance costs. The discount rate established by the EPA for the construction grants program shall be used in the cost-effectiveness analysis. The population forecasting in the analysis shall be consistent with the current needs survey.

5-2-2-e-4-5.3.2.c.1. An evaluation of alternative flow reduction methods. If the grant applicant demonstrates that the existing average daily base flow (ADBF) from the area is less than seventy (70) gallons per capita per day (gpcd), or if the chief determines the area has an effective existing flow reduction program, additional flow reduction evaluation is not required.

5-2-2-e-2-5.3.2.c.2. A description of the relationship between the capacity of alternatives examined and the needs to be served, including capacity for future growth expected after the treatment works become operational. This includes letters of intent from significant industrial users and all industries intending to increase their flows or relocate in the area documenting capacity needs and characteristics for existing or project flows.

5-2-2-e-3-5.3.2.c.3. An evaluation of improved effluent quality attainable by upgrading the operation, maintenance, and efficiency of existing facilities as an alternative or supplement to construction of new facilities.

~~5.2.2.e.4.~~ 5.3.2.c.4. An evaluation of the alternative methods for the reuse or ultimate disposal of treated wastewater and sludge material resulting from the treatment process.

~~5.2.2.e.5.~~ 5.3.2.c.5. A consideration of systems with revenue generating applications.

~~5.2.2.e.6.~~ 5.3.2.c.6. An evaluation of opportunities to reduce use of or recover energy.

~~5.2.2.e.7.~~ 5.3.2.c.7. Cost information on total capital costs and annual operation, maintenance, and replacement costs, as well as estimated annual or monthly cost to residential and industrial users.

~~5.2.2.d.~~ 5.3.2.d. If the flow rate at the existing treatment facility is more than one hundred and twenty (120) gallons per capita per day during periods of high groundwater, the applicant shall either:

~~5.2.2.d.1.~~ 5.3.2.d.1. Perform a study of the sewer system to determine the quantity of excessive infiltration and to propose a sewer rehabilitation program to eliminate the excessive infiltration; or

~~5.2.2.d.2.~~ 5.3.2.d.2. If the flow rate is not significantly more than one hundred and twenty (120) gallons per capita per day, request the chief to determine that he may proceed without further study, in which case the allowable project cost will be limited to the cost of a project with a capacity of one hundred and twenty (120) gallons per capita per day under 40 C.F.R. §35, Subpart 1, Appendix A.G.2.a.

~~5.2.2.e.~~ 5.3.2.e. An analysis of the potential open space and recreation opportunities associated with the project.

~~5.2.2.f.~~ 5.3.2.f. An adequate evaluation of the environmental impacts of alternatives under 40 C.F.R. Part 6.

~~5.2.2.g.~~ 5.3.2.g. An evaluation of the water supply implications of the project.

~~5.2.2.h.~~ 5.3.2.h. For the selected alternative, a concise description at an appropriate level of detail of at least the following:

~~5.2.2.h.1.~~ 5.3.2.h.1. Relevant design

parameters;

5-2-2-h-2- 5.3.2.h.2. Estimated capital, construction, and operation and maintenance costs (identifying the federal, State, and local shares) and a description of the manner in which local costs will be financed;

5-2-2-h-3- 5.3.2.h.3. Estimated cost of future expansion and long term needs for reconstruction of facilities following their design life;

5-2-2-h-4- 5.3.2.h.4. Cost impacts on wastewater system users; and

5-2-2-h-5- 5.3.2.h.5. Institutional and management arrangements necessary for successful implementation.

5-2-3- 5.3.3. ~~Submission-in-review--of--facilities plan.~~ Each facilities plan must be submitted to the State agency for review.

~~*09 §47-33A-6.--Special-Facilities-Planning-Elements.~~

~~6-1.--Innovative-and-Alternative-Technologies.--Funding for--innovative--and--alternative-technologies.--Projects-or portions-of-projects--using--unit--processes--or--techniques which--the--Administrator--determines--to--be--innovative--or alternative-technology-are--eligible--to--receive--increased assistance--determined--by--applying--the--applicable--grant percentage-to-the-allowance-for-the-Step-2-design-phase.~~

5.4. Innovative and Alternative Technology Funding. Projects or portions of projects using unit processes or techniques which the EPA determines to be innovative or alternative technology are eligible to receive increased assistance determined by applying the applicable grant percentage to the advance of allowance.

6-2- 5.5. Privately Owned Individual System(s).

6-2-1- 5.5.1. An eligible applicant may apply for advance of allowance assistance for privately owned treatment works serving one or more principal residences or small commercial establishments.

6-2-2- ~~In-addition-to-these-applicable-limitations set-ferth-in-Section-5-through-6.5-of-these-regulations,-the applicant-shall:~~

5.5.2. In addition to meeting the requirements set forth in Sections 5.1 through 5.3 of these regulations, the applicant shall:

6-2-2-a. 5.5.2.a. Demonstrate that the total cost and environmental impact of building the individual system will be less than the cost of a conventional system;

6-2-2-b. 5.5.2.b. Certify that the principal residence or small commercial establishment was constructed before December 27, 1977, and inhabited or in use on or before that date;

6-2-2-c. 5.5.2.c. Apply on behalf of a number of individual units to be served in the facilities planning area;

6-2-2-d. 5.5.2.d. Certify that public ownership of such works is not feasible and list the reasons; and

6-2-2-e. 5.5.2.e. Certify that such treatment works will be properly operated and maintained and will comply with all other requirements of Section 204 of the Act.

~~6-3. Advance Waste Treatment. As required by federal legislation, all projects proposing advance treatment shall be awarded grant assistance only after the project has been reviewed under EPA's advanced waste treatment policy. The Division recommends that potential grant applicants obtain this review prior to initiation of design.~~

*09 §47-33A-7. Design.

~~7.1. Contents of Applications for Design Advance Assistance.~~

~~7.1.1. An application for design advance assistance shall include:~~

~~7.1.1.a. Completed application form DWR-GG-1;~~

~~7.1.1.b. An approvable facilities plan;~~

~~7.1.1.c. Adequate information regarding availability of proposed site(s), if relevant;~~

~~7.1.1.d. Proposed subagreements;~~

~~7.1.1.e. Proposed or executed intermunicipal~~

agreements--necessary--for--the--construction--and--operation--of--the--proposed--treatment--works--for--any--projects--serving--two--or--more--municipalities;

7.1.1.f.--A--financial--analysis--of--Step--3--project--cost--estimates--and--an--affordability--analysis;

7.1.1.g.--Satisfactory-----scheduling-----of--developing--documents--required--by--Sections--7.7,--7.8,--and--7.9--of--these--regulations,

7.1.1.h.--Plan--of--design,--defining--a--task--schedule;

7.1.1.i.--Plan--of--operation--in--accordance--with--Section--7.3--of--these--regulations;

7.1.1.j.--Other--applicable--federal--and--State--statutory--and--regulatory--requirements,

7.2---Plans--and--Specifications---The--final--product--of--a--design--advance--of--allowance--will--be--an--approved--set--of--design--plans--and--specifications--which--are--suitable--for--bidding--purposes.

5.6. Advance Waste Treatment. As required by federal statute, all projects proposing advance treatment shall be awarded grant assistance only after the project has been reviewed under EPA's advanced waste treatment review policy. Potential grant applicants shall obtain this review prior to initiation of design.

*09 §47-33A-6. Design Advance of Allowance.

6.1. Plans and Specifications. The final product of a design advance of allowance will be an approved set of design plans and specifications which are suitable for bidding purposes.

6.2. Contents of Applications for Design Advance of Allowance Assistance.

6.2.1. An application for design advance of allowance assistance must include:

6.2.1.a. Completed application form DWR-CG-1;

6.2.1.b. An approvable facilities plan;

6.2.1.c. Adequate information regarding availability of proposed site(s), if relevant;

6.2.1.d. Proposed subagreements;

6.2.1.e. Proposed or executed intermunicipal agreements necessary for the construction and operation of the proposed treatment works for any projects serving two or more municipalities;

6.2.1.f. A financial analysis of total project cost estimates and an affordability analysis;

6.2.1.g. Satisfactory scheduling for developing documents required by Sections 6.3, 6.4, 6.8, and 6.9 of these regulations.

6.2.1.h. A plan of design defining a task schedule; and

6.2.1.i. Other applicable federal and State statutory and regulatory requirements.

~~7-3-~~ 6.3. Draft Plan of Operation. Before initiating procurement action for the building of the project, the applicant shall submit a draft of operation that addresses development of: an operation and maintenance manual; an emergency operating program; personnel training; an adequate budget identifying the basis for determining the annual operation and maintenance costs and the costs of personnel, material, energy, and administration; operational reports; laboratory testing needs; and an operation and maintenance program for the complete waste treatment system.

~~7-4-~~ 6.4. Intermunicipal Service Agreements. If the project will service two or more municipalities, the applicant shall submit the executed intermunicipal agreements, contracts, or other legally-binding instruments necessary for the financing, building, and operation of the proposed treatment works. At a minimum ~~they~~ these must include the basis upon which costs are allocated, the formula by which costs are allocated, and the manner in which the cost allocation system will be administered.

~~7-5-~~ 6.5. Collection System. For a municipality requesting planning or design assistance involving collection, such work:

~~7-5-1-~~ 6.5.1. Shall be for the replacement or major rehabilitation of an existing collection system which was not built with federal funds awarded on or after October 18, 1972, and shall be necessary to the integrity and performance of the complete waste wastewater treatment system serving the municipality; or

~~7-5-2-~~ 6.5.2. Shall be for a new cost-effective collection system in a municipality in existence on October 18, 1972, which has sufficient existing or planned capacity to adequately treat such collected wastewater and where the bulk (generally two-thirds) of the expected flow (from existing plus future residential users) will be from the resident population in existence on October 18, 1972. The expected flow will be subject to the limitations for interceptors contained in 40 C.F.R. §35.2123. If assistance is awarded, the grantee shall provide assurances that the existing population will connect to the collection system within a reasonable time after project completion.

~~7-6-~~ 6.6. Infiltration/Inflow. As part of an approvable facilities plan, the applicant shall demonstrate to the chief's satisfaction that each sewer system discharging into the proposed treatment works project is not or will not be subject to excessive infiltration/inflow. For combined sewers, inflow is not considered excessive in any event.

~~7-6-4-~~ 6.6.1. Inflow. If the rainfall-induced peak inflow rate results or will result in chronic operational problems during storm events, the applicant shall perform a study of the sewer system to determine the quantity of excessive inflow and to propose a rehabilitation program to eliminate the excessive inflow. All cases in which facilities are planned for the specific storage and/or or treatment of inflow shall be subject to a cost-effectiveness analysis.

~~7-6-2-~~ 6.6.2. Infiltration. If the flow rate at the existing treatment facility is one hundred and twenty (120) gallons per capita per day or less during periods of high groundwater, the applicant shall build the project including sufficient capacity to transport and treat any existing infiltration. However, if the applicant believes any specific portion of its sewer system is subject to excessive infiltration, the applicant may confirm its belief in a cost-effectiveness analysis and propose a sewer rehabilitation program to eliminate that specific excessive infiltration.

~~7-7-~~ 6.7. Approval of User Charge System and Proposed Sewer Use Ordinance. Unless the project is solely for acquisition of eligible land, the applicant for design assistance must include for development its proposed or existing sewer use ordinance (see ~~Section-7.8~~ Section 6.8 of these regulations) and its user charge system (see ~~Section 7.9~~ Section 6.9 of these regulations). If the applicant has a sewer use ordinance or user charge system in effect, the

applicant shall demonstrate to the chief's satisfaction that they are such ordinance or system is adequate and being enforced.

~~7-8-~~ 6.8. Sewer Use Ordinance. The sewer use ordinance (see also ~~Sections-7.7-and-8.4~~ Sections 6.7 and 7.4 of these regulations) or other legally-binding document to be developed shall prohibit any new connections from inflow sources into the treatment works and require that new sewers and connections to the treatment works are properly designed and constructed. The ordinance shall also require that all wastewater introduced into the treatment works does not contain toxics or other pollutants in amounts or concentrations that endanger public safety and or the physical integrity of the treatment works and shall also comply with West Virginia Administrative Regulations, Water Resources Board, Series 3, Section 14; ~~or~~ cause violation of effluent or water quality limitations; or preclude the selection of the most cost-effective alternative for wastewater treatment and sludge disposal.

~~7-9-~~ 6.9. User Charge System. The user charge system to be developed (see ~~Sections-7.7-and-8.4~~ also Sections 6.7 and 7.4 of these regulations) must be designed to produce adequate revenues required for the operation, maintenance, and replacement of the short life cycle components of the system. It shall provide that each user which discharges pollutants to the system that cause an increase in the cost of managing the effluent or sludge from the treatment works shall pay for such increased cost.

~~7-9-1-~~ 6.9.1. A grantee's user charge system based on actual use or estimated use of wastewater treatment services shall provide that each customer or customer class pay its proportionate share of operation and maintenance (including replacement) costs of treatment works within the recipient service area, based on the customer's proportionate contribution to the total wastewater loading from all customers or customer classes.

~~7-9-2-~~ 6.9.2. Each customer charge system must provide that each customer be notified at least annually, in conjunction with a regular bill or others means acceptable to the chief, of the rate and that portion of the customer charges which are attributable to wastewater contribution.

~~7-9-3-~~ 6.9.3. Each customer charge system must include an adequate financial management system that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the treatment system, based on a adequate

budget identifying the basis for determining the annual operation and maintenance cost and the costs of personnel, material, energy, and administration.

~~7-9-4-~~ 6.9.4. The user charge system shall provide that the cost of operation and maintenance for all flow not directly attributable to users (i.e., infiltration/inflow) be distributed among all users based upon either of the following:

~~7-9-4-a-~~ 6.9.4.a. In the same manner that it distributes the cost for their actual use; or

~~7-9-4-b-~~ 6.9.4.b. Under a system which uses one or any combination of the following factors on a reasonable basis:

~~7-9-4-b-1-~~ 6.9.4.b.1. Flow volume of the users.

~~7-9-4-b-2-~~ 6.9.4.b.2. Land area of the users.

~~7-9-4-b-3-~~ 6.9.4.b.3. Number of hookups or discharges of the users.

~~7-9-5-~~ 6.9.5. One or more municipal legislative enactments ~~rules---or---regulations~~ of a district must incorporate the user charge system as approved by the West Virginia Public Service Commission. If the project is a treatment system accepting wastewaters from other municipalities, the subscribers receiving waste treatment services from the grantee shall adopt user charge systems in accordance with Section 204(b)(1)(A) of the Act and ~~this section~~ Section 6.9 of these regulations. These user charge systems shall also be incorporated in appropriate municipal legislative enactments or other appropriate authority of all municipalities contributing wastes to the treatment works.

~~7-9-6-~~ 6.9.6. The user charge system shall take precedence over any terms or conditions of agreements or contracts which are inconsistent with the requirements of Section 204(b)(1)(A) of the Act and ~~this section~~ Section 6.9 of these regulations.

*09 ~~§47-33A-8-~~ §47-33A-7. Advance of Allowance Award Conditions.

~~8-1-~~ 7.1. General. Advance of allowance assistance awards are subject to all conditions imposed by these regulations, federal regulations, applicable State and

federal laws, and all special conditions included with assistance awards.

~~8-2-~~ 7.2. Project Changes. There are no eligible project changes.

~~8-3-~~ 7.3. Operation and Maintenance. The recipient must make provision satisfactory to the chief for assuring economical and effective operation and maintenance (including replacement) of the treatment works in accordance with the plan of operation (see ~~Section-7-3~~ Section 6.3 of these regulations) approved by the State.

~~8-4-~~ 7.4. Adoption of Sewer Ordinance and User Charge System. The recipient shall receive approval from West Virginia Public Service Commission and adopt its sewer use ordinance and implement its user charge system developed under ~~Sections-7-8-and-7-9~~ Sections 6.8 and 6.9 of these regulations before the treatment works is placed in operation. Further, the grantee shall implement the user charge system and sewer use ordinance for the useful life of the treatment works.

~~8-5-~~ 7.5. Project Initiation and Completion.

~~8-5-1-~~ 7.5.1. After receipt of advance of allowance assistance it is expected that the recipient shall complete the project in accordance with the advance assistance agreement. Nothing in ~~this-section~~ Section 7.5 of these regulations affects the State's right to take remedial action against a recipient that fails to carry out these obligations.

~~8-5-2--The-recipient-is-expected--to--provide--the-architectural--and-engineering--services--and--other--services-necessary-to-fulfill-the-obligation-in-paragraph-A--of--this-section-~~

7.5.2. The recipient is expected to provide the architectural, engineering, and other services necessary to bring the project to completion.

~~8-5-3-~~ 7.5.3 Nothing in ~~this-section~~ Section 7.5 of these regulations shall be construed to prohibit a recipient from requiring more assurances, guarantees, or indemnity or other contractual requirements from any party performing project work.

*09 ~~§47-33A-9--Procedures-for-Assistance-Payments-~~

~~9-4--Determination-of-Allowable-Costs--The-advance~~

~~shall not exceed the federal share of the estimate of the allowance for such costs which a grantee would receive under 40 C.F.R. §35.2025(a).~~

7.6. Determination of Allowable Costs. The advance of allowance shall not exceed the federal share of the estimate of the allowance for such costs which a grantee would receive under 40 C.F.R. §35.2025(a).

*09 §47-33A-8. Procedures for Assistance Payments.

~~9.2.~~ 8.1. Advance of Allowance Payments.

~~9.2.1.~~ 8.1.1. The chief shall pay authorize payment of the State share of the advance of allowance under ~~Section 9.1~~ Section 7.6 of these regulations in accordance with the payment schedule within the advance assistance agreement (DWR-CG-2).

~~9.2.2.~~ 8.1.2. In addition to adjustments settlement under 40 C.F.R. §30.802, the chief may review or audit any payment request and may make revisions as appropriate.

~~9.2.3.~~ 8.1.3. By ~~the recipient's acceptance of~~ accepting final payment of the allowance, the recipient releases and discharges the State, its officers, agents, and employees from all liabilities, obligations, and claims arising out of the project work or under the advance of allowance, subject only to expectations previously specified in writing between the chief and the recipient.

~~9.3.~~ 8.2. Repayment of Advance in Certain Cases. In the event a Step 2/3 or Step 3 grant is not awarded to a recipient of an advance of allowance, the State may seek repayment of ~~the~~ that advance on such terms and conditions as it may determine. When a the State recovers such advances they shall be added to its most recent grant for advances of allowance.

*09 ~~§47-33A-10.~~ §47-33A-9. Record Keeping by Recipient.

~~10.1.~~ 9.1. Records. The recipient of advance of allowance funds must keep records utilizing standard accounting principles and procedures. The records may be subject to examination by the State chief.

*09 ~~§47-33A-11.~~ §47-33A-10. Subagreement Enforcement.

~~11.1. Subagreement Enforcement.~~

~~44.4.4.~~ 10.1. At the recipient's request, the chief may provide technical and legal assistance in the administration and enforcement of any subagreement related to treatment works for which a State advance of allowance was made and intervene in any civil action involving the enforcement of such subagreements, including subagreement disputes which are the subject of either arbitration or court action.

~~44.4.2.~~ 10.2. The chief's technical or legal involvement in any subagreement dispute will not make the State a party to any subagreement entered into by the recipient.

~~44.4.3.~~ 10.3. The State may seek remedies, provided in the advance assistance agreement for failure of the municipality to ~~perform---~~ ~~or~~ adequately perform its obligations, including repayment of the allowance advance.

***09 §47-33A-11. Adjustments of Advance Awards.**

11.1. An advance of allowance award may be decreased due to the processing of an EPA grant to the recipient prior to the advance of allowance completion date. If the chief deems such adjustment to be necessary, the advance of allowance award will be decreased to the actual amount paid to the recipient. The EPA grant will be adjusted accordingly.

*09 Editors note: Appendix A which includes forms, instructions, tables, and federal rules is excluded from publication. It is available from the DNR.

APPENDIX A

Advances for Facilities Planning and Design

1. This appendix provides the method required by federal regulations by which the State will determine the estimated advances for both facilities planning and design. The Step 2/3 and Step 3 grant agreement will include an estimate of the federal share of the allowance. The final allowance will be contained in a formal grant amendment executed after the initial award of all the prime subagreements for building the project.
2. The advance is determined by applying the applicable grant percentage to the allowance.
3. The advance is not intended to reimburse the recipient for costs actually incurred for facilities planning or design. Rather, the advance is intended to assist in defraying those costs. Under this procedure, questions of equity (i.e., reimbursement on a dollar-for-dollar basis) will not be appropriate.
4. The estimated advance will be determined in accordance with this appendix and Tables 1, 2, and 3. These tables are based on EPA regulations derived from an analysis of the historical data for the cost of facilities planning and design in the construction grants program.
5. The advance is calculated as a percentage of the allowable building cost. Table 1 provides the calculated amount of both a facility plan and design advance. Table 2 is used to calculate the amount of the design advance, and Table 3 is used to calculate a facility plan advance.
6. The estimated advance is to be based on an estimate of the allowable building cost. The building cost and final allowance is to be based on the allowable cost of the initial award of all subagreements for building the project.
7. The initial allowable building cost is the initial allowable cost of erecting, altering, remodeling, improving, or extending a treatment works whether accomplished through subagreement or force account. Specifically, the initial allowable building cost is the allowable cost of the following:
 - a. The initial award amount of all prime subagreements for building the project.
 - b. The initial amounts approved for force account work performed in lieu of awarding a subagreement for building the project.
 - c. The purchase price of eligible real property.

8. The final allowance will be determined one time only, based on allowable building cost, and will not be adjusted for subsequent cost increases or decreases.
9. For a Step 3 project, the federal share of the final allowance will be included in the first payment following the grantee's award of all prime subagreements for building the project upon which the allowance is based.
10. The advance does not include architectural or engineering services provided during the building of the project, e.g., reviewing bids, checking shop drawings, reviewing change orders, making periodic visits to job site, etc. Architectural or engineering services during the building of the project will be paid on a cost reimbursement basis subject to EPA regulations and including 40 C.F.R. Part 33.
11. The advance for segmented waste treatment systems will be based on the total allowable building cost of each segment.
12. The advance for a phased funded waste treatment system will be based on the total allowable building cost of each segment.
13. The estimated advance is calculated as a percentage of the allowable building costs as shown in Table 1, 2, and 3. The federal (non-local) share of the allowance is 55% of the amount calculated from the tables.
 - a. For a facilities plan advance award, 100% of the estimated Step 1 advance will be paid upon approval of the facilities plan.
 - b. For a design advance award:
 - (1) 30% of the advance will be paid at the time of award upon completion of a properly executed payment request.
 - (2) 20% of the advance will be paid upon request at the 50% completion of plans and specifications and
 - (3) The balance of the advance (based upon actual costs) will be paid at contract award time.
 - c. For a design award containing a facilities plan advance the payment schedule will be as follows: 30% at the date of award; 35% at the 50% milestone; and final 35% at the award of Step 3 construction contracts.
14. The State will determine the amount of the advance provided by federal requirements. The State shall determine when the advance is to be given.
15. EPA will reduce the federal share of the allowance by the amount of any advances the grantee has received.

ASSURANCES

As authorized representative of

name of legal entity

I certify that

name of legal entity

agrees to comply with the laws, regulations, policies, and conditions relating to federal funding for this project. I also certify that

name of legal entity

1. Has the legal, institutional, managerial, and financial capability to ensure adequate construction, operation, and maintenance (including replacement) of the wastewater treatment works and has analyzed the local share of the costs of the proposed facilities, including the financial impact on each community and the residents of the service area.
2. Has not violated any federal, State, or local law pertaining to fraud, bribery, graft, kickbacks, collusion, conflict of interest, or other unlawful or corrupt practices relating to or in connection with facilities planning on a wastewater treatment works project.
3. Will establish a public participation program to include at least one public meeting on the approved plan, and to submit a transcript of these meetings to the State of West Virginia.
4. Will comply with the provisions of: Executive Order 11988, relating to evaluation of potential effects of any actions in a floodplain; Executive Order 12088, relating to the prevention, control, and abatement of water pollution; and Executive Order 11990, relating to minimizing harm to wetlands.
5. Will pay the applicants share of project costs and obtain the necessary non-EPA project funds.
6. Will obtain approval from the chief of the final working drawings and specifications before the project is advertised or placed on the market for bidding.

7. Will require the facility to be designed to comply with the "American National Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117-1-196, as modified (41 C.F.R. 101-17.703). The District will be responsible for conducting inspections to insure compliance with these specifications by the contractor.
8. Will give the appropriate State and federal agencies, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
9. Will initiate building all significant elements of the project within twelve (12) months of the Step 3 (construction) award, and will diligently pursue completion of the project.
10. Will comply with Title VI of the Civil Rights Act of 1964 (P.L. 88-352).
11. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or gives the appearance of personal or organizational conflict of interest.
12. Will comply with the requirements of Title II and III of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of federal and federally assisted programs.
13. Will not dispose of, modify the use of, or change the terms of the real property title or other interest in the site and facilities without permission and instructions from EPA.
14. Will record the federal interest in the title of real property in accordance with 40 C.F.R. 30.535, if acquired with EPA funds as provided for in 40 C.F.R. 35, Appendix A, Section D.
15. Will include a covenant in the title of real property acquired with EPA awarded funds to assure nondiscrimination during the useful life of the wastewater treatment works as required by 40 C.F.R. 7.80(a)(2).
16. Will ensure that the facilities under its ownership, lease, or supervision used to accomplish the project are not listed on EPA's list of violating facilities and will notify EPA or the State of West Virginia of the receipt of any communication indicating that a facility to be used in the project is under consideration for listing by EPA.

17. Will assure that, if assistance is for a new collection system which is grant eligible under 40 C.F.R. 35.2116, the existing population will connect to the collection system within a reasonable time after project completion.
18. Will comply with the provisions of the Davis-Bacon Act, the Copeland Act, Federal Fair Labor Standards Act, and the Contract Work Hours and Safety Standards Act regarding labor standards for federally assisted construction subagreements.
19. Will comply with the provisions of the Hatch Act, which limits the political activities of employees.
20. Will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234), which requires grantees in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more. (See 40 C.F.R. 30.600(b) and 44 C.F.R. Parts 59-79)
21. Will assist EPA and the State of West Virginia to assure compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), Executive Order 11593, and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.)
22. It will comply with the provisions of Executive Order 12372 and future regulations of OMB relating thereto which pertain to intergovernmental review and will comply with OMB Circular A95 in the interim.
23. It will comply with the National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 et seq.), and other related environmental laws and executive orders that require an assessment of the environmental impact of the project. See 40 C.F.R. Part 6 for specific requirements.
24. It will comply with all requirements imposed by the appropriated State and federal agencies concerning special requirements of law, program requirements, and other administrative requirements approved in accordance with OMB Circular No. A-102.
25. It will comply with Section 508 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. 1368), and Executive Order 11738, which prohibit EPA from awarding assistance if the applicant intends to use any facility on EPA's list of violating facilities to complete work on the applicants agreement. It will include a clause in all subagreements that requires the recipients of those

subagreements to comply with the requirements of 40 C.F.R. Part 15. Section 13 of the 1972 Amendments to the Act prohibits sex discrimination under any program or activity receiving assistance under the Act. See 40 C.F.R. Part 12 for specific requirements.

26. It will comply with Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), which prohibits discrimination on the basis of handicap in federally assisted programs.
27. It will comply with provisions of the Age Discrimination Act of 1975 (45 U.S.C. 6101 et seq.) which prohibits discrimination on the basis of age in federally assisted programs.
28. It will comply with Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300(h)(3)(e)) which prohibits EPA from awarding assistance if the EPA determines that the applicant's project may contaminate a sole source aquifer so as to result in a significant hazard to public health. See 40 C.F.R. Part 149.
29. It will not use convict labor unless the convicts are on work release, parole, or probation. (see 18 U.S.C. 436)
30. It will not utilize debarred or suspended contractors in accordance with the most current list of contractors available at the time of the submission of this application.

Certification

I certify that I am a duly authorized representative of the within named legal entity and that I have read and understand these requirements and assurances.

Name of legal entity

Name and title of authorized representative

Signature

Date

NOTE: A copy of your governing body's authorization for you to sign this application as official representative must be on file in the applicant's office.

APPLICATION FOR ADVANCE ASSISTANCE

<p>TO: Construction Grants Branch Division of Water Resources Department of Natural Resources</p>	<p>1. State Clearinghouse ID No. _____</p>
<p>2. Legal Applicant/Recipient</p> <p>a. Name _____ b. Street _____ c. City _____ d. County _____ e. Zip Code _____</p>	<p>3. Type of Advance Assistance</p> <p>a. Facilities Plan _____ B. Design Plans & Specs _____ c. Facilities Plan & Design Plans & Specs _____</p>
<p>4. Project Start Date _____</p>	<p>5. Project Completion Date _____</p>
<p>6. Congressional District of</p> <p>a. Applicant _____ b. Project _____</p>	<p>7. Area of Project Impact</p>
<p>8. Proposed Scope of Work of Project</p>	
<p>9. Population of Project Area</p> <p>a. Current _____ b. For Facilities Plan _____ c. For Design Service _____</p>	<p>10. Budget</p> <p>a. Total Project Cost _____ b. Advance (est) _____ c. Local Share _____</p>
<p>11.</p> <p>a. Priority Rating _____ b. Priority Rank _____ c. Project No. AC540 _____ d. Estimated Allowable Construction Costs _____ e. Advance Grant Amount _____ f. Date of Preapplication Meeting _____ g. Date of Application Receipt _____ h. Advance NEPA Approval Date _____</p>	

---SAMPLE---

RESOLUTION

WHEREAS; the _____, _____
(Applicant) (County)
County, West Virginia, is in need of wastewater collection,
transmission and treatment facilities; and

WHEREAS; State funding from the West Virginia Department of
Natural Resources, Planning Advance Program will be needed; and

WHEREAS; the _____, _____
(Applicant) (County)
County, West Virginia, desires to pursue funding through the
Advance Program;

NOW, THEREFORE, BE IT RESOLVED, that _____
(Authorized
(Representative) _____ of the _____,
(Title) (Applicant)
_____ County, West Virginia, is hereby designated
(County)
as the Applicant's representative to sign all documents related
to application for the aforesaid funds, and to authorize the
completion of the planning for wastewater facilities in a timely
manner.

The foregoing resolution was passed by the Governing Board
of the _____, _____ County,
(Applicant) (County)
West Virginia, at a meeting convened on the _____ day
(Date)
of _____, 19 _____.
(Month) (Year)

BY: _____
Chairman

Attest: _____ Date: _____

STATE OF WEST VIRGINIA

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
CONSTRUCTION GRANTS BRANCH

INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR ADVANCE
ASSISTANCE (Form DWR-CG-1)

A. GENERAL INSTRUCTIONS

1. A pre-application meeting shall be held with the Division of Water Resources, Construction Grants Branch, prior to the application for an advance.
2. The applicant must have a population under 25,000 or the estimated population benefitting must be under 25,000.
3. The applicant must certify that a cash flow problem will exist without the advance.
4. A plan of study or plan of design and a schedule of tasks must accompany the application.
5. A copy of the proposed A/E agreement must be enclosed.
6. A resolution from the applicant's governing body must be enclosed authorizing the certifying representative to apply for the advance and sign all other legal documents pertaining to the project. (see sample enclosed)
7. A copy of the Assurances signed and dated.
8. The application for advance assistance for the preparation of a facilities plan may be approved for qualifying projects prior to the start of the facilities plan but the advance will not be given until completion and approval of the facilities plan. The amount of the advance will be based on the A/E estimate in the facilities plan of the eligible building costs of the Step 3 or Step 2/3 project.
9. A separate application will be required for advance assistance for the design of the project following approval of the facilities plan. The amount of the advance, if approved, will be based on the A/E's estimate in the facilities plan of the eligible building cost of the Step 3 or Step 2/3 project.

INSTRUCTIONS cont.

10. The advance for facilities planning will be in one lump sum; however, the design advance will be given in increments. The first 30% of the design advance will be given upon approval of the design advance. A payment representing 50% of the advance will be given at the 50% completion point as shown by the task schedule. The balance of the advance based upon actual cost will be paid at the time of the first Step 3 grant payment following the contract award with adjustments made to reflect the actual allowable building cost. For a design award containing a facilities plan advance the payment schedule will be as follows: 30% at date of award; 35% at the 50% milestone; and the balance adjusted for actual eligible costs at the award of the Step 3 construction contract.
11. In the event that a Step 3 or a Step 2/3 grant is not awarded to a recipient of an advance the state may seek repayment of the advance in accordance with EPA regulations (40 C.F.R. 35.2025(b)(5)).

B. SPECIFIC INSTRUCTIONS

1. Assigned by State Clearinghouse agency upon review of application. All requests must contain this identifier. Please contact the Governor's Office of Community and Industrial Development.
2. Self-explanatory.
3. Select one only. Separate applications are required for each type of project.
4. This is the date of authorization to start work on the project.
5. This date is to indicate when all work will be finished and submitted to DWR in accordance with the plan of study (POS) for design and specifications.
6. Indicate the congressional district in which the applicant is located. If project is in a different district, please indicate.

INSTRUCTIONS cont.

7. List all government units where significant and meaningful impact could be observed. List inhabited places such as unincorporated areas, towns, cities, counties, public service districts, etc...
8. Briefly describe project.
9.
 - a. Use latest census data or best estimate available.
 - b. If application is for facilities planning, give estimated population of the proposed planning area.
 - c. If application is for design, give estimated population to be served from the approved facilities plan.
10. Self-explanatory.
11. Leave blank (for DWR use).
12. Explain how the facilities plan or design costs are to be paid.
13. Explain cash flow problem and how advance would help.
14. Self-explanatory.
15. Self-explanatory.

STATE OF WEST VIRGINIA
PLANNING AND/OR DESIGN
ADVANCE ASSISTANCE
AGREEMENT/AMENDMENT

1. PROJECT NO. AC 540 _____
2. a. AWARD DATE _____ 3. ACTION TYPE _____
a. Original _____
b. DATE MAILED _____ b. Decrease _____

TO: GRANTS ADMINISTRATION SECTION
CONSTRUCTION GRANTS BRANCH
DIVISION OF WATER RESOURCES
DEPARTMENT OF NATURAL RESOURCES

4. CLEARINGHOUSE NO. _____
5. a. Starting Date _____
b. Completion Date _____

PART A - BASIC INFORMATION

6. RECIPIENT ORGANIZATION

Name: _____
Street/P.O. Box: _____
City/State/Zip: _____
County: _____
Telephone No.: _____

7. AUTHORIZED CERTIFYING OFFICIAL

Name: _____
Street/P.O. Box: _____
City/State/Zip: _____
County: _____
Telephone No.: _____

8. CONSULTANT A/E

Name: _____
Address: _____
Telephone No.: _____
Contact Person: _____

9. PROJECT TYPE (check one)

a. Facilities Plan _____
b. Design _____
c. Facilities Plan & Design _____

10. PROJECT DESCRIPTION:

11. DWR ADVANCE ASSISTANCE OFFICER

Name: _____
Telephone No.: _____

12. DWR PROJECT ENGINEER

Name: _____
Telephone No.: _____

PART B - ADVANCE ASSISTANCE CONDITIONS

13. ASSISTANCE PAYMENT PROCEDURES (check appropriate box)

- a. Facilities plan assistance will be paid, upon submission of Form DWR-CG-3, after approval based on A/E's eligible estimated allowable building cost as given in facilities plan.
- b. Advance assistance for plans and specifications not to exceed the federal share of the estimated allowance will be paid, upon submission of Form DWR-CG-3, as follows:
 - 1. 30% upon acceptance of this offer.
 - 2. 50% (the next incremental 20%) at the 50% completion point as shown by the task schedule in the Plan of Design (POD).
 - 3. The federal share of the Step 2 allowance will be adjusted at the time of the first Step 3 grants payment following the contract award to reflect the actual eligible building cost.

ASSISTANCE PAYMENT PROCEDURES (Continued)
(check appropriate box)

- c. Advance assistance for Design plans and Specifications, including unpaid Advance for approved Facilities Plan, not to exceed the federal share of the estimated allowance will be paid, upon submission of form DWR-CG-3, as follows:
1. 30% upon acceptance of this offer.
 2. 65% (the next incremental 35%) at the 50% completion point as shown by the task schedule in the Plan of Design (POD).
 3. The Federal share of the combined allowance will be adjusted at the time of the first Step 3 grant payment following the contract award, to reflect the actual eligible building cost.

14. ESTIMATED DOLLAR AMOUNTS

- a. Est. eligible building cost \$ _____
- b. Est. advance for Facilities Plan \$ _____
- c. Est. advance for Design \$ _____
1. First payment (30% increment) \$ _____
 2. Second payment (20% increment) \$ _____
(50% of advance)
 3. Final payment (adjusted) \$ _____
- d. Est. advance for Design and unpaid advance for Facilities Plan \$ _____
1. First payment (30% increment) \$ _____
 2. Second payment (35% increment) \$ _____
 3. Final payment (adjusted) \$ _____

15. GENERAL CONDITIONS

The recipient covenants and agrees that it will expeditiously initiate and timely complete the project for which assistance has been awarded under this agreement, in accordance with all applicable provisions of 40 CFR Chapter 1, Subpart I, all its amendments, and applicable State regulations adopted for Advance Assistance. The recipient warrants, represents, and agrees that it, and its contractors, subcontractors, employees, and representatives will comply with: (1), all applicable provisions of 40 CFR Chapter 1, Subpart I, all its amendments, INCLUDING BUT NOT LIMITED TO the applicable provisions of 40 CFR Part 30, all its amendments, and applicable State regulations, and (2), any special conditions set forth in this agreement or any assistance agreement pursuant to Federal and State regulations. Assurances certified in the Application for this advance are included as General Conditions to this Agreement.

16. SPECIAL CONDITIONS (See attached for types of special conditions)

PART C

NOTE: This agreement must be completed in duplicate and the original returned to the Construction Grants Branch, Division of Water Resources, Department of Natural Resources, within 31 days after receipt or within any extension of time as may be granted by DWR. Receipt of a written refusal or failure to return the properly executed document within the prescribed time may result in the withdrawal of the offer by the Agency.

OFFER AND ACCEPTANCE

The State of West Virginia acting by and through the Chief of the Division of Water Resources hereby offers advance assistance to _____ (Recipient Organization) in the amount of \$ _____, determined in accordance with Chapter 20-5A, 40 C.F.R. 1, Subpart I, Appendix A, and those regulations as described in Part B above for partial financial support of the project described in the application, _____

_____ (Title and Date of Application)
included herein by reference.

ISSUING OFFICE:

STATE OF WEST VIRGINIA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RESOURCES
CONSTRUCTION GRANTS BRANCH

RECIPIENT ORGANIZATION & ADDRESS:

THE STATE OF WEST VIRGINIA by the DEPARTMENT OF NATURAL RESOURCES,
DIVISION OF WATER RESOURCES

SIGNATURE OF AWARD OFFICIAL

TYPED NAME & TITLE

DATE

This agreement is subject to applicable State and U.S. Environmental Protection Agency statutory provisions and assistance regulations. In accepting this award and any payments made pursuant thereto, (1), the undersigned represents that he is duly authorized to act on behalf of the recipient organization, and (2), the recipient agrees that the assistance is subject to the applicable provisions of 40 C.F.R. Chapter 1, Subpart I and of the provisions of this agreement (Parts A thru C). If a Step 2/3 or Step 3 construction grant is not awarded, the State of West Virginia retains the right to seek repayment of the Advance under such terms and conditions as it may determine.

BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION

SIGNATURE

TYPED NAME & TITLE

ACCEPTANCE DATE

SPECIAL CONDITIONS

ADVANCE PROGRAM

Project Schedule

The State's policy requires that projects be initiated and proceed in a timely manner. For that reason, the schedule shown below, which was developed in conjunction with your grant application, is included as a special condition. The grantee is expected to take all appropriate actions to ensure that this schedule is maintained.

	<u>Date</u>		
Plans and Specifications Approval	_____	_____	_____
Bid Advertisement	_____	_____	_____
Construction Contract Award	_____	_____	_____
Construction Start (NTP)	_____	_____	_____

Subagreements and Contracts

The grantee agrees to negotiate a subagreement and contract for all services to be awarded under this grant. Such subagreements and contracts shall be in conformance with and incorporate the required clauses of 40 C.F.R. Part 33.

Force Account Work

Pursuant to 40 C.F.R. 30.645 the grantee may utilize the Force Account Method, in lieu of any subagreement for project inspection and technical services, as outlined in the grantee's application dated _____. The grantee acknowledges and agrees that the use of the Force Account Method in no way relieves the grantee of its obligations to fully comply with all applicable Federal laws, regulations and guidelines. The grantee may submit billings for the allowable indirect costs incurred during the project period, utilizing the negotiated provisional overhead rate of _____, in the absence of an audit approved rate. Upon completion of this project, a final overhead rate shall be established based on an EPA audit.

Award Restrictions

The grantee agrees that no portion of this award will be used for lobbying or propaganda purposes as prohibited by 18 U.S.C. Section 1913 or Section 607(a) of Public Law 96-74.

Public Participation

Additional public participation is required to inform prospective users of the expected costs and rates. The grantee shall submit to the DNR project engineer, within two months, a plan/schedule for conducting the additional public participation.

Audit Requirement

The recipient agrees that it will comply with the provisions of OMB Circular A-128 governing the audit of State and local government recipients of federal assistance for fiscal years that begin after December 31, 1984. (This requirement replaces 40 C.F.R. 30.540(b) which is based on OMB Circular A-102, Attachment P.)

EPA's National Municipal Policy

Nothing in this grant agreement shall be construed to excuse the grantee from meeting the requirements of the National Municipal Policy and the enforceable requirements of the Clean Water Act, as amended.

The Schedule for completion of this project will be revised as needed to correspond to any schedule approved in the context of an enforcement action.

Advertisement for Bids

Prior to the advertisement for construction bids, the grantee agrees to submit to the State for approval the following:

- A draft plan of operation
- An executed intermunicipal service agreement
- A value engineering report and notice of implementation
- A user charge system; sewer use ordinance
- Final design drawings and specifications

STATE OF WEST VIRGINIA
OUTLAY REPORT
AND
REQUEST FOR PAYMENT
OF
ADVANCE ASSISTANCE
DWR-CG-3

INSTRUCTIONS

1. Self-explanatory.
2. Indicate any previous requests for payment.
3. Self-explanatory.
4. Give the estimate of the total eligible building cost of the selected alternative from the facilities plan. A/E's fees, contingencies, and other costs related to construction but not actual building costs are ineligible.
5. Indicate the type of project for which the advance payment is requested.
6.
 - a. Give the estimated Advance amount calculated from the tables in West Virginia Administrative Regulations, Department of Natural Resources, Series 33A, Appendix A, Tables 1, 2, and 3.
 - b. Give the amount requested, which in the case of a facilities plan, is the same as the estimated advance.
 - c. Show total of previous amounts received, if any.
 - d. Self-explanatory.
 - e. Self-explanatory.
 - f. To be completed if bids have been let:
 - A. Enter the amount of the actual advance determined by the contract award.
 - B. Self-explanatory.
 - C. Self-explanatory.

STATE OF WEST VIRGINIA
 OUTLAY REPORT AND REQUEST FOR
 PAYMENT OF ADVANCE ASSISTANCE

1. PROJECT NO. AC540 _____

2. PAYMENT REQUEST NO. _____

TO: GRANTS ADMINISTRATION SECTION
 CONSTRUCTION GRANTS BRANCH
 DIVISION OF WATER RESOURCES
 DEPARTMENT OF NATURAL RESOURCES

3. RECIPIENT ORGANIZATION

Name: _____
 Street/P.O. Box: _____
 City/State/Zip: _____
 County: _____
 Telephone No. _____

4. ESTIMATE OF TOTAL BUILDING COST:
 (from Facilities Plan) _____

5. PROJECT TYPE
 a. Facilities Plan _____ b. Design _____
 c. Facilities Plan & Design _____

6. REQUEST FOR ADVANCE PAYMENT AND STATUS OF FUNDING

CLASSIFICATION	PAYMENT	ADVANCE GRANT	PAYMENT ADJUSTMENT
a. Advance Grant Amount		\$ _____	
b. Payment Requested	\$ _____		
c. Previous Payment Received	\$ _____		
d. Total Amount Requested (b + c)		\$ _____	
e. Balance (a - d)			\$ _____
f. Advance Adjustment			
A. Actual Advance based on contract award		\$ _____	
B. Amount Previously received		\$ _____	
C. Final Payment (A-C)		\$ _____	\$ _____
			indicate + or -

FOR RECIPIENT ORGANIZATION

NAME _____

TITLE _____ DATE _____

SIGNATURE OF AUTHORIZED OFFICIAL _____

FOR DIVISION OF WATER RESOURCES

NAME _____

TITLE _____

SIGNATURE OF ADVANCE ASSISTANCE OFFICER _____

AMOUNT APPROVED \$ _____

DATE APPROVED _____

TABLE 1.

Allowance for Facilities Planning and Design
 (Reprinted from 40 C.F.R. Part 35,
 Subpart I, Appendix B)

Building cost	Allowance as a percentage of building cost
\$100,000 or less-----	14.4945
120,000-----	14.1146
150,000-----	13.6631
175,000-----	13.3597
200,000-----	13.1023
250,000-----	12.6832
300,000-----	12.3507
350,000-----	12.0764
400,000-----	11.8438
500,000-----	11.4649
600,000-----	11.1644
700,000-----	10.9165
800,000-----	10.7062
900,000-----	10.5240
1,000,000-----	10.3637
1,200,000-----	10.0920
1,500,000-----	9.7692
1,750,000-----	9.5523
2,000,000-----	9.3682
2,500,000-----	9.0686
3,000,000-----	8.8309
3,500,000-----	8.6348
4,000,000-----	8.4684
5,000,000-----	8.1975
6,000,000-----	7.9827
7,000,000-----	7.8054
8,000,000-----	7.6550
9,000,000-----	7.5248
10,000,000-----	7.4101
12,000,000-----	7.2159
15,000,000-----	6,9851
17,500,000-----	6.8300
20,000,000-----	6.6984
25,000,000-----	6.4841
30,000,000-----	6.3142
35,000,000-----	6.1739
40,000,000-----	6.0550
50,000,000-----	5.8613
60,000,000-----	5.7077
70,000,000-----	5.5809
80,000,000-----	5.4734
90,000,000-----	5.3803
100,000,000-----	5.2983
120,000,000-----	5.1594
150,000,000-----	4.9944
175,000,000-----	4.8835
200,000,000-----	4.7894

TABLE 2.

Allowance for Design only
 (Reprinted from 40 C.F.R., Part 35,
 Subpart I, Appendix B)

Building cost	Allowance as a percentage of building cost
\$100,000 or less-----	8.5683
120,000-----	8.3808
150,000-----	8.1570
175,000-----	8.0059
200,000-----	7.8772
250,000-----	7.6668
300,000-----	7.4991
350,000-----	7.3602
400,000-----	7.2419
500,000-----	7.0485
600,000-----	6.8943
700,000-----	6.7666
800,000-----	6.6578
900,000-----	6.5634
1,000,000-----	6.4300
1,200,000-----	6.3383
1,500,000-----	6.1690
1,750,000-----	6.0547
2,000,000-----	5.9574
2,500,000-----	5.7983
3,000,000-----	5.6714
3,500,000-----	5.5664
4,000,000-----	5.4769
5,000,000-----	5.3306
6,000,000-----	5.2140
7,000,000-----	5.1174
8,000,000-----	5.0352
9,000,000-----	4.9637
10,000,000-----	4.9007
12,000,000-----	4.7935
15,000,000-----	4.6655
17,500,000-----	4.5790
20,000,000-----	4.5054
25,000,000-----	4.3851
30,000,000-----	4.2892
35,000,000-----	4.2097
40,000,000-----	4.1421
50,000,000-----	4.0314
60,000,000-----	3.9432
70,000,000-----	3.8702
80,000,000-----	3.8080
90,000,000-----	3.7540
100,000,000-----	3.7063
120,000,000-----	3.6252
150,000,000-----	3.5284
175,000,000-----	3.4630
200,000,000-----	3.4074

TABLE 3.

Allowance for Facilities Planning

Building Cost	Allowance as a percentage of building costs
\$100,000 or less.....	5.9262
120,000.....	5.7338
150,000.....	5.5061
175,000.....	5.3538
200,000.....	5.2251
250,000.....	5.0164
300,000.....	4.8516
350,000.....	4.7162
400,000.....	4.6019
500,000.....	4.4164
600,000.....	4.2701
700,000.....	4.1499
800,000.....	4.0484
900,000.....	3.9606
1,000,000.....	3.9337
1,200,000.....	3.7537
1,500,000.....	3.6002
1,750,000.....	3.4976
2,000,000.....	3.4108
2,500,000.....	3.2703
3,000,000.....	3.1595
3,500,000.....	3.0684
4,000,000.....	2.9915
5,000,000.....	2.8669
6,000,000.....	2.7687
7,000,000.....	2.6880
8,000,000.....	2.6198
9,000,000.....	2.5611
10,000,000.....	2.5094
12,000,000.....	2.4224
15,000,000.....	2.3196
17,500,000.....	2.2510
20,000,000.....	2.1930
25,000,000.....	2.0990
30,000,000.....	2.0250
35,000,000.....	1.9642
40,000,000.....	1.9129
50,000,000.....	1.8299
60,000,000.....	1.7645
70,000,000.....	1.7107
80,000,000.....	1.6654
90,000,000.....	1.6263
100,000,000.....	1.5920
120,000,000.....	1.5342
150,000,000.....	1.4660
175,000,000.....	1.4205
200,000,000.....	1.3820

REQUEST FOR ADVANCE OR REIMBURSEMENT

(See instructions on back)

Approved by Office of Management and Budget, No. 80-RO183

PAGE OF PAGES

1. TYPE OF PAYMENT REQUESTED a. "X" one, or both boxes <input type="checkbox"/> ADVANCE <input type="checkbox"/> REIMBURSEMENT b. "X" the applicable box <input type="checkbox"/> FINAL <input type="checkbox"/> PARTIAL	2. BASIS OF REQUEST <input type="checkbox"/> CASH <input type="checkbox"/> ACCRUAL
---	---

3. FEDERAL SPONSORING AGENCY AND ORGANIZATIONAL ELEMENT TO WHICH THIS REPORT IS SUBMITTED	4. FEDERAL GRANT OR OTHER IDENTIFYING NUMBER ASSIGNED BY FEDERAL AGENCY	5. PARTIAL PAYMENT REQUEST NUMBER FOR THIS REQUEST
--	--	---

6. EMPLOYER IDENTIFICATION NUMBER	7. RECIPIENT'S ACCOUNT NUMBER OR IDENTIFYING NUMBER	8. PERIOD COVERED BY THIS REQUEST FROM (month, day, year) TO (month, day, year)
--	--	--

9. RECIPIENT ORGANIZATION Name : Number and Street : City, State and ZIP Code :	10. PAYEE (Where check is to be sent is different than item 9) Name : Number and Street : City, State and ZIP Code :
---	--

11. COMPUTATION OF AMOUNT OF REIMBURSEMENTS/ADVANCES REQUESTED				
PROGRAMS/FUNCTIONS/ACTIVITIES ▶	(a)	(b)	(c)	TOTAL
(As of date)				
a. Total program outlays to date	\$	\$	\$	\$
b. Less: Cumulative program income				
c. Net program outlays (Line a minus line b)				
d. Estimated net cash outlays for advance period				
e. Total (Sum of lines c & d)				
f. Non-Federal share of amount on line e				
g. Federal share of amount on line e				
h. Federal payments previously requested				
i. Federal share now requested (Line g minus line h)				
j. Advances required by month, when requested by Federal grantor agency for use in making prescheduled advances	1st month			
	2nd month			
	3rd month			

12. ALTERNATE COMPUTATION FOR ADVANCES ONLY	
a. Estimated Federal cash outlays that will be made during period covered by the advance	\$
b. Less: Estimated balance of Federal cash on hand as of beginning of advance period	
c. Amount requested (Line a minus line b)	\$

13. CERTIFICATION		
I certify that to the best of my knowledge and belief the data above are correct and that all outlays were made in accordance with the grant conditions or other agreement and that payment is due and has not been previously requested.	SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	DATE REQUEST SUBMITTED
	TYPED OR PRINTED NAME AND TITLE	TELEPHONE (AREA CODE, NUMBER, EXTENSION)

This space for agency use