**United States Environmental Protection Agency (EPA)**
**National Pollutant Discharge Elimination System (NPDES)**

# GENERAL PERMIT FOR STORMWATER DISCHARGES FROM SMALL MUNICIPAL SEPARATE STORM SEWER SYSTEMS IN THE COMMONWEALTH OF PUERTO RICO

**PERMIT NUMBER PRR040000**
**PERMIT NUMBER PRR04000F**

AUTHORIZATION TO DISCHARGE UNDER THE
NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

In compliance with the provisions of the Clean Water Act (CWA), as amended (33 U.S.C. §§ 1251 *et seq*.), any operator of a small municipal separate storm sewer system located in the Commonwealth of Puerto Rico are authorized to discharge to waters of the United States in accordance with the eligibility described in Section 1.2, and submits a complete and accurate Notice of Intent, in accordance with Section 1.7 of this permit, and receives written authorization from EPA.

The permit is structured to allow discharge in accordance with the conditions and the requirements set forth in Sections 1 through 7, including Appendices A through F.

This permit shall become effective on **Effective Date of the Permit (EDP)**.

This permit and the authorization to discharge shall expire at midnight on five years after the EDP (**EDP + 5 years)**.

Signed this day of

_____

Carmen R. Guerrero-Pérez, Director
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U.S. Environmental Protection Agency
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## 1.1 Coverage under this Permit

### 1.1. Areas of Coverage

This permit covers the small municipal separate storm sewer systems (MS4s) located within the:

- Commonwealth of Puerto Rico; and
- Federal Facilities within Commonwealth of Puerto Rico

The permit applies to:

- Systems owned by public universities,
- Systems owned by the Commonwealth of Puerto Rico, municipalities, or the United States; and
- Systems owned by the Commonwealth of Puerto Rico transportation agencies.

### 1.2. Eligibility

MS4 that meet the eligibility requirements in Section 1.2.1, Section 1.9 and Section 1.10 are eligible for coverage under this permit.

#### 1.2.1 Small MS4s

This permit authorizes the discharge of stormwater from small MS4s as defined at 40 C.F.R. § 122.26(b)(16) and Appendix A. This includes MS4s described in 40 C.F.R. § 122.32(a)(1) or (a)(2). An MS4 is eligible for authorization under this permit if it is:

- An MS4 (see definition in Appendix A) within the permit areas described in Section 1.1;
- Located either fully or partially within an urbanized area (UA) as determined by the 2020, 2010, 2000 and 1990 Decennial Census by the Bureau of Census; or
- Located in a geographic area designated by EPA as requiring a permit.

If the small MS4 is not located entirely within an urbanized area, only the portion of the MS4 that is located within the urbanized area is regulated by this permit consistent with 40 C.F.R. § 122.32(a)(1).

### 1.3 Limitations on Coverage

This permit does not authorize the following:

a. Stormwater discharges mixed with sources of non-stormwater, unless the non-stormwater discharges are either (1) authorized under a separate NPDES permit, or (2) allowed under Section 1.4.

b. Stormwater discharges associated with industrial activity as defined in 40 C.F.R. § 122.26 (b)(14)(i - ix) and (xi).

c. Stormwater discharges associated with construction activity as defined in 40 C.F.R. § 122.26(b) (14) (x) or (b) (15).

d. Stormwater discharges currently covered under another NPDES permit, including discharges covered under other regionally issued general permits.

e. Stormwater discharges or discharges related activities that are likely to adversely affect any species that are listed as endangered or threatened under the Endangered Species Act (ESA) or result in the adverse modification or destruction of habitat that is designated as critical under the ESA. The permittee shall follow the procedures detailed in Appendix C to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted Notice of Intent (NOI).

f. Stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities that have an effect on a property that is listed or eligible for listing on the National Register of Historic Places (NRHPs). The permittee shall follow the procedures detailed in Appendix D to make a determination regarding eligibility. The permittee shall certify compliance with this provision on the submitted NOI.

g. Stormwater discharges to territorial seas, the contiguous zone, and the oceans unless such discharges are in compliance with the ocean discharge criteria of 40 C.F.R. § 125, Subpart M.

h. Stormwater discharges prohibited under 40 C.F.R. § 122.4.

i. Stormwater discharges to the subsurface subject to Commonwealth of Puerto Rico Underground Injection Control (UIC) regulations. Although the permit includes provisions related to infiltration and groundwater recharge, structural controls that dispose of stormwater into the ground may be subject to UIC regulation requirements. Requests for authorization for such discharges shall be made to the Puerto Rico Department of Natural and Environmental Resources (PRDNER), Groundwater Protection Division.

### 1.4 Allowable Non-stormwater Discharges

The following categories of non-stormwater discharges are allowed under this permit unless the permittee, EPA, or the PRDNER identifies any category of non-stormwater discharge in Section 1.4 1-18 as a significant contributor of pollutants (see definition in Appendix A) to the MS4, then that category is not allowed under Section 1.4, but rather shall be deemed an "illicit discharge" under Section 2.4.4.1 and the permittee shall address that category as part of the Illicit Discharge Detection and Elimination (IDDE) Program described in Section 2.4.4 of this permit.

1. Water line flushing
2. Landscape irrigation
3. Diverted stream flows
4. Rising ground water
5. Uncontaminated ground water infiltration (as defined at 40 C.F.R. § 35.2005(20))
6. Uncontaminated pumped ground water
7. Discharge from potable water sources
8. Foundation drains
9. Air conditioner condensate
10. Irrigation water, springs

11. Water from crawl space pumps
12. Footing drains
13. Lawn watering
14. Individual residential car washing
15. Flows from riparian habitats and wetlands
16. De-chlorinated swimming pool discharges
17. Street wash water runoff
18. Residential building wash water runoff without detergents

Discharges or flows from firefighting activities are allowed under this permit. However, discharges from fighting activities that are identified as significant sources of pollutants to waters of the United States need to be addressed and reported to federal and state authorities.

### 1.5 Permit Compliance

Any non-compliance with any requirement of this permit constitutes a violation of the permit and the CWA, and may be grounds for an enforcement action resulting in the imposition of injunctive relief and/or penalties.

### 1.6 Continuation of this Permit

If this permit is not reissued prior to the expiration date, it will be administratively continued in accordance with the Administrative Procedure Act, 5 U.S.C. § 558(c), and 40 C.F.R. § 122.6. The terms and conditions of this permit will remain in force and effect for discharges that were authorized prior to expiration. If a small MS4 was granted permit authorization prior to the expiration date of this permit, it will automatically remain authorized by this permit until the earliest of:

- Authorization under a reissued general permit following timely and appropriate submittal of a complete and accurate NOI requesting authorization to discharge under the reissued permit; or
- Issuance or denial of an individual permit for the MS4's discharges; or
- Authorization or denial under an alternative general permit.

If the MS4 operator does not submit a timely, appropriate, complete and accurate NOI requesting authorization to discharge under the reissued permit, or a timely request for authorization under an individual or alternative general permit, authorization under this permit will terminate on the due date for the NOI under the reissued permit unless otherwise specified in the reissued permit.

### 1.7 Obtaining Permit Coverage

#### 1.7.1 How to Obtain Authorization to Discharge

To obtain authorization under this permit, a small MS4 shall:

- Be located in the areas listed in Section 1.1 of this permit;
- Meet the eligibility requirements in Section 1.2, Section 1.9 and Section 1.10;
- Submit a complete and accurate NOI in accordance with the requirements of Section 1.7.2; and
- Receive written authorization date of coverage under this permit from EPA.

### 1.7.2 Notice of Intent (NOI)

a. Operators of Small MS4s seeking authorization to discharge under the terms and conditions of this permit shall submit a complete and accurate NOI that contains the information identified in Appendix F. This includes operators of small MS4s that were previously authorized under the July 1, 2016 Small MS4 General Permit.

You must use EPA's NPDES eReporting Tool (NeT) to electronically prepare and submit your NOI for coverage under the 2021 Small MS4 General Permit, unless you received a waiver from the EPA Region 2 Office.

To access NeT, go to https://cdx.epa.gov/cdx.

Waivers from electronic reporting may be granted based on one of the following conditions:

- If your operational headquarters is physically located in a geographic area (i.e., ZIP code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or

- If you have limitations regarding available computer access or computer capability.

Once the EPA Region 2 Office has granted the waiver, it will accept submittal of a paper NOI, and if you elect to use it, you must complete the form in Appendix F.

b. The NOI shall be signed by an appropriate official (see Appendix B Subsection 11).

c. The NOI shall contain the following certification:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, I certify that the information submitted is, to best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

The name and title of the official shall be printed or typed, and shall be followed by signature and date.

d. For existing programs under the 2016 permit, the NOI shall be submitted within 90 days of the effective date of the permit. If EPA notifies a new MS4 that it is designated under 40 C.F.R. § 122.32(a)(2) or (b), the NOI shall be submitted within 180 days of receipt of notice unless granted a longer period of time by EPA.

### 1.7.3 Submission of Notice of Intent

a. All small MS4s shall submit a complete and accurate NOI on EPA's NeT website stated in Section 1.7.2.a. Unless you have been granted a waiver for electronic submittal, then you shall submit a paper form NOI found in Appendix F to EPA-Region 2 at the following address:

United States Environmental Protection Agency
Multimedia Permits and Compliance Branch
City View Plaza II – Suite 7000
48 Road 165 Km. 1.2
Guaynabo, Puerto Rico 00968-8069
ATTN: Sergio Bosques

b. Late notification: A small MS4 is not prohibited from submitting an NOI after the dates provided in Section 1.7.2.d. However, if a late NOI is submitted, authorization under this permit only covers discharges that occur after permit authorization is granted. EPA reserves the right to take enforcement actions for any unpermitted discharges.

### 1.7.4 Co-Permittees under a Single Notice of Intent

A permittee may partner with other MS4s to develop and implement a Stormwater Management Program. The permittee may also jointly submit an NOI with one or more MS4s; however, each MS4 must fill out the NOI form as stated in Section 1.7.3.a. The description of the Stormwater Management Program must clearly describe which permittees are responsible for implementing each of the control measures.

### 1.7.5 Public Notice of NOI and Authorization Date of Coverage

a. EPA will provide a public notice and opportunity for comment on the contents of the submitted NOIs. The public comment period will be a minimum of 30 calendar days. The NOIs will be posted on EPA Region 2's website: https://www.epa.gov/npdes-permits/npdes-permits-phase-2-stormwater-program-puerto-rico.

b. Based on EPA's review of an NOI, public comments received, or other information, EPA may grant authorization, extend the public comment period, or deny authorization under this permit and require submission of an application for an individual or alternative general NPDES permit (see Section 1.8). A small MS4 will be authorized to discharge under the terms and conditions of this permit upon written receipt of notice of authorization from EPA.

c. Permittees who are authorized to discharge under the 2016 Small MS4 General Permit may continue to do so after the permit expires on June 30, 2021, as EPA has administratively extended the permit in accordance with the Administrative Procedure Act, 5 U.S.C. § 558(c) and 40 C.F.R. § 122.6 until this permit becomes effective. Those permittees who wish to obtain coverage under this permit, must submit a new complete

and accurate NOI requesting permit coverage in accordance with the requirements of Section 1.7 of this permit to EPA within 90 days after the effective date of this permit. For enforcement purposes, permittees whose authorization to discharge under the expired 2016 Small MS4 General Permit was administratively continued, and who fail to submit a timely, complete and accurate NOI requesting authorization to discharge under the reissued permit or an application for an individual NPDES permit within 90 days after the effective date of this permit, will be considered to be discharging without a permit as of the effective date of this permit.

## 1.8 Individual Permits and Alternative General Permits

a. EPA may require a small MS4 to apply for and obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. Any interested person may petition EPA, in accordance with the provisions of 40 C.F.R. § 122.26(f), to require a small MS4 to apply for and/or obtain authorization under either an individual NPDES permit or an alternative NPDES general permit. If EPA requires a small MS4 to apply for an individual or alternative NPDES permit, EPA will notify the small MS4 in writing that a permit application is required. This notification will include a brief statement of the reasons for this decision, along with application information and an application deadline. If a small MS4 is authorized under the 2016 Small MS4 General Permit or this current general permit, and fails to submit an individual NPDES or an alternative general permit NPDES permit application as required by EPA, then the authorization under the 2016 Small MS4 General Permit or this current general permit to the small MS4 is automatically terminated on the application deadline for individual or alternative NPDES permit. EPA reserves the right to take enforcement action for any unpermitted discharge.

b. A small MS4 may request to be excluded from this general permit by applying for an individual permit or authorization under an alternative general permit. In such a case, a small MS4 operator shall submit an individual permit application in accordance with the requirements of 40 C.F.R. § 122.33(b)(2)(i) or § 122.33(b)(2)(ii), with reasons supporting the request, to EPA at the address listed in Section 1.7.3 of this permit. The request may be granted by issuance of an individual permit or authorization under an alternative general permit if EPA determines that the reasons stated by the small MS4 operator are adequate to support the request. (See 40 C.F.R. § 122.28(b)(3)).

c. When an individual NPDES permit is issued, or a small MS4 is authorized to discharge under an alternative NPDES general permit, authorization under this permit shall automatically terminate on the effective date of the individual permit or the date of authorization of coverage under the alternative general permit.

## 1.9 Endangered and Threatened Species and Critical Habitat Eligibility Determination

The small MS4 shall certify in the NOI, submitted pursuant to Section 1.7.2, that it is eligible to be covered under this permit with regard to endangered and threatened species, and critical habitat protection. The determination shall be made in accordance with the Endangered Species

Act Guidance Review Procedure found in Appendix C. The Stormwater Management Program (SWMP), required under Section 1.11 of this permit, shall include documentation supporting the permittee's eligibility determination with regard to the federal Endangered Species Act, including:

- Information on whether federally listed endangered or threatened species, or critical habitat are found in proximity to the MS4's stormwater outfalls, or activities or structures involved in stormwater best management practices (BMPs);
- Whether such species or habitat are likely to be adversely affected by the stormwater discharges or stormwater discharge-related activities, e.g., BMP installation;
- Results of the endangered and threatened species and critical habitat screening determinations made pursuant to Appendix C; and
- If any such species or habitats are present, a description of the measures the MS4 shall implement to protect federally listed endangered or threatened species, or critical habitat, including any conditions imposed by the U.S. Fish and Wildlife Service or the U.S. National Marine Fisheries Service (the Services). If a permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

### 1.10 Historic Property Eligibility Determination

The small MS4 shall certify, in the NOI pursuant to Section 1.7.2, that it is eligible to be covered under the permit with regard to historic properties. The determination shall be made in accordance with the National Historic Preservation Act Review Guidance Procedures found in Appendix D. The SWMP, required under Section 1.11 of this permit, shall include documentation supporting the MS4's eligibility determination with regard to Historic Properties Preservation, including:

- Information on whether the permittee's stormwater discharges, allowable non-stormwater discharges, or stormwater discharge-related activities would have an effect on a property that is listed or eligible for listing on the National Register of Historic Places (NRHP);
- Where such effects may occur, any documents received by the permittee or any written agreements the permittee has made with the State Historic Preservation Office (SHPO) representative to mitigate those effects;
- Results of the historic property screening investigations made pursuant to Appendix D; and
- If applicable, a description of the measures the permittee shall implement to avoid or minimize adverse impacts on places listed, or eligible for listing, on the NRHP, including any conditions imposed by the SHPO. If the permittee fails to document and implement such measures, those discharges are ineligible for coverage under this permit.

## 1.11 Stormwater Management Program (SWMP)

a. The new permittee shall develop, implement, and enforce a written SWMP. The SWMP shall be signed in accordance with Appendix B, Subsection 11, and shall include the date of signature. A signature and date are required for initial program preparation and for any significant revision to the program. The written SWMP shall be developed and submitted within one hundred eighty (180) days from the authorization date of coverage under the permit. The implementation of the SWMP shall commence immediately after submission to EPA.

The SWMP is the document used by the permittee to describe the activities and measures that will be implemented to meet the terms and conditions of this permit. The SWMP shall accurately describe the permittee's plans and activities. The document shall be updated and/or modified during the permit term as the permittee's activities change.

b. Permittees authorized by the 2016 Small MS4 General Permit should have modified or updated their existing Best Management Practices (BMPs) and measurable goals of their existing SWMP to meet the terms and conditions of the permit; unless stated otherwise. These modifications and updates should be reflected in the written SWMP. Permittees authorized by the 2016 Small MS4 General Permit shall continue to implement their existing updated or modified SWMP. <u>If the existing SWMP has not been modified or updated, the permittee will need to submit an updated SWMP within ninety (90) days from the authorization date of coverage under the permit</u>. The implementation of the modified/updated SWMP shall commence immediately after submission to EPA.

If submitting a modified or updated SWMP within 90 days is infeasible, the permittee must document, within 45 days from the authorization date of coverage of this permit, why it is infeasible, and implement such modifications. The permittee will also develop a compliance work plan schedule of 180 days for modifying/updating the SWMP, including components of the SWMP that have not been accomplished, and submit to EPA by the end of the 180 days. The implementation of the modified/updated SWMP shall commence immediately after submission.

c. The permittee is encouraged to maintain an adequate funding source for the implementation of this program. Adequate funding means that a consistent source of revenue exists for the program.

### 1.11.1 SWMP Availability

a. The permittee shall retain a copy of the current SWMP required by this permit at the office or facility of the person listed as the program contact on the submitted NOI. The SWMP shall be immediately available to representatives from: EPA; PRDNER; the U.S. Fish and Wildlife Service (USFWS); and the National Marine Fisheries Service (NMFS), at the time of an onsite inspection or upon request.

b. The permittee shall make the SWMP available to the public during normal business

hours. The permittee may charge a reasonable fee for copy requests. The permittee is encouraged to satisfy this requirement by posting the SWMP online or making it available upon written request.

### 1.11.2 Contents of SWMP

The SWMP shall contain the following:

- Identification of names and titles of people responsible for program implementation. If a position is currently unfilled, list the title of the position, and modify the SWMP with the name once the position is filled;
- Listing of all receiving waterbody segments, their classification under the applicable Commonwealth of Puerto Rico water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable Total Maximum Daily Loads (TMDLs) and Waste Load Allocations (WLAs), and the number of outfalls from the MS4 that discharge to each waterbody. In addition to the receiving water, the permittee shall document all public drinking water sources (surface water and groundwater) that may be impacted by MS4 discharges;
  *Note: EPA's Puerto Rico Impaired Waters List website:*
  *https://www.epa.gov/tmdl/puerto-rico-impaired-waters-list*
- Listing of all interconnected MS4s and other separate storm sewer systems receiving a discharge from the permitted MS4, the receiving waterbody segment(s) ultimately receiving the discharge, their classification under the applicable Commonwealth of Puerto Rico water quality standards, any impairment(s) and associated pollutant(s) of concern, applicable TMDLs and WLAs, and the number of interconnections;
- Documentation of compliance with Section 1.9;
- Documentation of compliance with Section 1.10;
- The existing map of the separate storm sewer system. The modified map of the storm sewer system will be submit as required by Section 2.4.4.6;
- Description of practices to achieve compliance with Section 2.2.1 (TMDL requirements) including:
  - The person(s) or department responsible for implementing the measure;
  - The BMPs required for the control measure or permit requirement;
  - The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation, and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.
- Water Quality Response Plans as specified in Section 2.1.2, including for each BMP.
- Description of any other practices to achieve compliance with Section 2.1 (water quality-based effluent limitations);
- Description of practices to achieve compliance with Section 2.4 (Requirements to Reduce Pollutants to the Maximum Extent Practicable);
  - For each permit condition in Section 2.4 identify:
    - The person(s) or department responsible for implementing the measure;
    - The BMPs required for the control measure or permit requirement;
    - The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a

quantity or quality associated with its endpoint. Each goal shall have a measure of assessment associated with it.

- Annual program evaluation (Section 3.1). Update annually and maintain copies.

### 1.11.3 Requirements for New Permittees

Permittees seeking authorization for the first time shall meet all deadlines contained in this permit except for specific deadlines which are modified as follows:

- Timelines for legal authority requirements in Section 2.3.3 shall be extended by three (3) years;
- Timelines for public education requirements in Section 2.4.2 shall be extended by one (1) year;
- Outfall Inventory under Section 2.4.4.7 shall be completed within two (2) years from the authorization date of coverage of this permit given by EPA;
- System mapping under Section 2.4.4.6 shall be completed within four (4) years from the authorization date of coverage of this permit. The permittee shall include the best available system mapping with its SWMP while mapping requirements are being completed;
- All other timelines of the IDDE Program, program development, monitoring, and IDDE Program Implementation Goals and Milestones under Section 2.4.4 shall be extended by two (2) years;
- The ordinances, by-laws, or other regulatory mechanisms required by Sections 2.4.4, 2.4.5 and 2.4.6 shall be completed as soon as possible, but no later than three (3) years from the authorization date given by EPA; and
- Timelines for discharges to impaired waters without a TMDL under Section 2.2.2 shall be extended by two (2) years. This timeline extension does not apply to those discharges identified pursuant to Section 2.1.1.c within the first three (3) years after the authorization date given by EPA.

## 2.0 Non-Numeric Effluent Limitation

The permittee shall develop, implement and enforce a program to reduce the discharge of pollutants from the MS4 to the maximum extent practicable; to protect water quality and to satisfy the appropriate water quality requirements of the Clean Water Act and the Puerto Rico Water Quality Standards (PRWQS). Pursuant to 40 C.F.R. § 122.2, pollutant means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.

## 2.1 Water Quality Based Effluent Limitations

In addition to requirements to reduce the discharge of pollutants to the maximum extent practicable, pursuant to the Clean Water Act Section 402(p)(3)(B)(iii), this permit includes provisions to ensure that discharges from the permittee's small MS4 do not cause or contribute to an exceedance of water quality standards. The requirements found in this Section 2.1.1 and Section 2.2 constitute the water quality-based effluent limits of this permit. Requirements to reduce the discharge of pollutants to the maximum extent practicable are set forth in Section 2.4.

### 2.1.1 Requirements to Meet Water Quality Standards

a. Discharges shall not cause or contribute to an exceedance of applicable water quality-based standards (including numeric and narrative water quality criteria) for the receiving water. Applicable water quality-based standards are the PRWQS that have been federally-approved as of the authorization date of coverage of the permit.

b. For each waterbody that receives a discharge from the small MS4, the permittee shall consult the water quality standards applicable to that waterbody. Applicable water quality standards are compiled at https://www.epa.gov/wqs-tech/water-quality-standards-regulations-puerto-rico. The PRDNER also makes a copy of its regulations available at: www.drna.pr.gov/otrora-jca/.

c. If at any time the permittee determines, or EPA or the PRDNER determines, that a discharge causes or contributes to an exceedance of applicable water quality standards, the permittee shall, within 60 days of becoming aware of the situation, eliminate the conditions causing or contributing to an exceedance of water quality standards. If elimination of the conditions within 60 days is infeasible, the permittee shall develop a Water Quality Response Plan addressing the pollutant(s) causing the conditions (the "pollutants of concern") pursuant to Section 2.1.2, below. The permittee shall include in its annual report: (1) a listing of any such discharges identified during the reporting period; (2) a description of measures taken to eliminate conditions within 60 days or the basis of a finding that such elimination is infeasible; and (3) a description of any Water Quality Response Plan, as specified in Section 2.1.2. The permittee must comply with any additional requirements or schedules established by EPA or the PRDNER, including any requirement to submit additional information concerning the potential cause of the exceedance. Any discharge causing or contributing to an exceedance of applicable water quality standards violates Section 2.1.1.a of this permit, and remains a violation until eliminated. The 60 days to eliminate the conditions causing or contributing to an exceedance of an applicable water quality standard is not a grace period; compliance with the requirements of Section 2.1.1.c does not excuse or otherwise constitute a defense to a violation of Section 2.1.1.a.

### 2.1.2 Water Quality Response Plan

The following information must be included in the SWMP with the applicable deadlines and updated annually thereafter, as necessary:

a. Description of practices to achieve compliance with Part 2.2.1 (discharges subject to requirements related to approved TMDLs) including:
   i. The person(s) or department responsible for the measure;
   ii. The BMPs for the control measure or permit requirement;
   iii. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or

quality associated with its endpoint. Each goal must have an associated measurement assessment.

b. Description of practices to achieve compliance with Part 2.2.2 (discharges subject to requirements related to impaired water without an approved or established TMDL) including:
   i. The person(s) or department responsible for the measure;
   ii. The BMPs for the control measure or permit requirement;
   iii. The measurable goal(s) for each BMP. Each measurable goal shall include milestones and timeframes for its implementation and have a quantity or quality associated with its endpoint. Each goal must have an associated measure of assessment.

c. Description of any other practices to achieve compliance with Part 2.1 (water quality-based requirements).

## 2.2 Discharges to Water Quality Impaired Waters

The permittee shall identify in the SWMP and Annual Reports all discharges, including outfalls and interconnections to other MS4s or other separate storm sewer systems, that:

- Are subject to an approved Total Maximum Daily Load (TMDL) as identified in Section 2.2.1; or
- Discharge to a water identified as impaired by the PRDNER pursuant to Section 303(d) of the Clean Water Act, and for which TMDL development has been identified, as necessary, but for which a TMDL has not yet been approved. (See Appendix E)

The outfall location from an interconnected storm sewer system discharge, which is the discharge point at the receiving water body, shall be determined based on the receiving water of that outfall from this interconnected system. EPA or the PRDNER may determine that additional waters shall be treated as "impaired" waters pursuant to Section 2.2 based on water quality or modeling information, and shall notify the affected MS4 permittees of any such determination.

### 2.2.1 Existing Discharge to an Impaired Water with an Approved TMDL

If the small MS4 discharges to an impaired water body (see Appendix E) with an approved TMDL, where stormwater has the potential to cause or contribute to the impairment, the permittee shall include in the SWMP controls targeting the pollutant(s) of concern along with any additional or modified controls required in the TMDL and this section.

The SWMP and required annual reports shall include information on implementing any focused controls required to reduce the pollutant(s) of concern as described below:

a. Targeted Controls
   The SWMP shall include a detailed description of all targeted controls to be implemented, such as identifying areas of focused effort or implementing additional BMPs that will be implemented to reduce the pollutant(s) of concern in the impaired waters.

b. Measurable Goals
   For each targeted control, the SWMP shall include a measurable goal and an

implementation schedule describing BMPs to be implemented during each year of the permit term.

c. Identification of Benchmark Goal
The SWMP shall identify a benchmark goal (i.e., measurable goal) for the pollutant(s) of concern. The value of the benchmark shall be determined based on one of the following options:

(1) If the MS4 is subject to a TMDL that identifies an aggregate Waste Load Allocation (WLA) for all permitted MS4 stormwater sources, then the SWMP shall identify such WLA as the benchmark. Where an aggregate WLA benchmark is used, all affected MS4 operators are jointly responsible for progress in meeting the benchmark goal and shall (jointly or individually) develop a monitoring/assessment plan as required in Section 2.2.1(f).

(2) Alternatively, if multiple small MS4s are discharging into the same impaired water body with an approved TMDL, with an aggregate WLA for all permitted stormwater MS4s, then the MS4s shall combine or share efforts to determine an alternative sub-benchmark goal for the pollutant(s) of concern (e.g., bacteria) for their respective MS4. The SWMP shall clearly define this alternative approach and shall describe how the sub-benchmark goals would cumulatively support the aggregate WLA. Where an aggregate WLA benchmark has been broken into sub-benchmarks for individual MS4s, each permittee is only responsible for progress in meeting its WLA sub-benchmark goal.

(3) If the small MS4 is subject to an individual WLA specifically assigned to that MS4, the benchmark goal shall be the assigned WLA. Where WLAs have been individually assigned, or where the small MS4 is the only regulated MS4 within the urbanized area that is discharging into the impaired watershed with an approved TMDL, the permittee is only responsible for progress in meeting its WLA benchmark goal.

d. Annual Report
The annual report shall include an analysis of how the selected BMPs have been effective in contributing to achieving the benchmark goal.

e. Impairment for Bacteria
If the pollutant of concern is bacteria, the permittee shall include focused BMPs addressing the below areas, as applicable, in the SWMP and implement as appropriate. If a TMDL Implementation Plan is available, the permittee may refer to the Implementation Plan BMPs. The SWMP and annual report shall include justification for not implementing a particular BMP included in the Implementation Plan or for not addressing the provisions set forth in Section 2.2.1(e)(1 - 5). Permittees shall not exclude BMPs associated with the minimum control measures

required under 40 C.F.R. § 122.34 from their list of proposed BMPs. Proposed BMPs shall be reviewed during the NOI and SWMP review and approval process.

The BMPs shall address the following:

(1) Sanitary Sewer Systems
   i. Make improvements to sanitary sewers;
   ii. Address lift station inadequacies;
   iii. Improve reporting of violations;
   iv. Strengthen controls; and
   v. Identify areas without sanitary sewers where storm sewers are conveying sewage to the receiving waters.

(2) On-site Sewage Facilities
   i. Identify and address failing systems; and
   ii. Address inadequate maintenance of On-Site Sewage Facilities (OSSFs).

(3) Illicit Discharge and Dumping
   Place additional effort to reduce waste sources of bacteria and other pollutants; for example, from septic systems, grease traps, and grit traps.

(4) Animal Sources
   Expand existing management programs to identify and target animal sources, including, but not limited to, pet waste, and horse stables.

(5) Residential Education
   Increase focus to educate residents on:
   i. Bacteria discharging from a residential site either during runoff events or directly;
   ii. Fats, oils, and grease clogging sanitary sewer lines and resulting overflows;
   iii. Decorative ponds; and
   iv. Pet waste.

f. Monitoring or Assessment of Progress

The permittee shall monitor or assess progress in achieving benchmark goals and determining the effectiveness of BMPs, and shall include documentation of this monitoring or assessment in the SWMP and annual reports. In addition, the SWMP shall include methods to be used.

(1) The permittee shall use either of the following methods to evaluate progress towards the benchmark goal and improvements in water quality:
   i. Evaluating Program Implementation Measures
   The permittee shall evaluate and report progress towards the benchmark goal by describing the activities and BMPs implemented, by identifying the appropriateness of the identified BMPs, and by evaluating the success of implementing the measurable goals.

   The permittee shall assess progress by using program implementation indicators, pursuant to Section 2.4.4 of this permit, such as: (1) number of sources identified or eliminated; (2) decrease in number of illegal trash

and/or waste dumping; (3) increase in illegal trash dumping reporting; (4) number of educational opportunities conducted; (5) reductions in sanitary sewer overflows (SSOs); or, 6) increase in illegal discharge detection through dry weather screening, etc.; or

ii. Assessing Improvements in Water Quality
The permittee shall assess improvements in water quality by using available data for segment and assessment units of water bodies from other reliable sources (e.g., see Appendix E, Beach Monitoring Programs, Federal/State Agency Monitoring Programs, etc.), or by proposing and justifying a different approach such as collecting additional instream or outfall monitoring data, etc. Data may be acquired from PRDNER, local river authorities, partnerships, and/or other local efforts, as appropriate.

(2) Progress towards achieving the benchmark goal shall be reported in the annual report. Annual reports shall report the benchmark goal and the year(s) during the permit term that the MS4 conducted additional sampling or other assessment activities.

g. Observing no Progress Towards the Benchmark Goal
If, **by the end of the third year** from the authorization date of coverage of this permit, the permittee observes no progress toward the benchmark goal either from program implementation or water quality assessments as described in Section 2.2.1(f), the permittee shall identify alternative focused BMPs that address new or increased efforts towards achieving the benchmark goal or, as appropriate, shall develop a new approach to identify the most significant sources of the pollutant(s) of concern and shall develop alternative focused BMPs for those (this may also include information that identifies issues beyond the MS4's control). These revised BMPs shall be included in the SWMP and discussed in subsequent annual reports.

Where the permittee originally used a benchmark based on an aggregated WLA, the permittee may combine or share efforts with other MS4s discharging to the same watershed to determine an alternative sub-benchmark goal for the pollutant(s) of concern for their respective MS4s, as described in Section 2.2.1(c)(2) above. Permittees shall document, in their SWMP for the next permit term, the proposed schedule for the development and subsequent adoption of alternative sub benchmark goals for the pollutant(s) of concern for their respective MS4s and associated assessment of progress in meeting those individual goals.

### 2.2.2 Existing Discharge to an Impaired Water without an Approved or Established TMDL

The permittee shall also determine whether the permitted discharge is directly impacting one or more water quality impaired water bodies (see Appendix E) where a TMDL has not yet been approved by PRDNER and EPA. If the permittee discharges directly into an impaired water body without an approved TMDL, the permittee shall perform the

following activities:

a. Discharging a Pollutant of Concern

(1) Within the first year following the authorization date of coverage of this permit, the permittee shall determine whether the small MS4 may be a source of the pollutant(s) of concern by referring to the CWA Section 303(d) list, and then determining if discharges from the MS4 would be likely to contain the pollutant(s) of concern at levels of concern.

(2) If the permittee determines that the small MS4 may discharge the pollutant(s) of concern to an impaired water body without a TMDL, the permittee shall, no later than two years following the authorization date of coverage of this permit, ensure that the SWMP includes focused BMPs, along with corresponding measurable goals that the permittee will implement to reduce the discharge of pollutant(s) of concern that contribute to the impairment of the water body.

(3) In addition, no later than three years following the authorization date of coverage of this permit, the permittee shall submit a notice of modification to amend the SWMP to include any additional BMPs to address the pollutant(s) of concern.

b. Impairment of Bacteria
Where the impairment is for bacteria, the permittee shall identify potential significant sources and develop and implement targeted BMPs for those sources. The permittee may implement the focused BMPs listed in Section 2.2.1(e) or proposed alternative BMPs, as appropriate.

c. The annual report shall include information on compliance with this section, including results of any sampling conducted by the permittee.

## 2.3 Stormwater Management Program (SWMP)

A SWMP shall be developed, implemented and enforced according to the requirements of Section 2.3 of this general permit, for stormwater discharges that reach waters of the U.S., regardless of whether the discharge is conveyed through a separately-operated storm sewer system. The SWMP shall be developed, implemented and enforced to reduce the discharge of pollutants from the small MS4 to the maximum extent practicable (MEP), to protect water quality, and to satisfy the appropriate water quality requirements of the CWA and the PRWQS.

Implementation of BMPs, consistent with the provisions of this permit and SWMP, constitutes compliance with the standard of reducing pollutants to the MEP, and the permittee will be deemed to be in compliance with Section 2.3 of this permit. This permit does not extend any compliance deadlines set forth in the previous permit, effective July 1, 2016, for those permittees who were authorized under that permit.

### 2.3.1 Developing a SWMP

SWMP Development and Schedule

a. Existing regulated small MS4s
Permittees who were regulated under the 2016 Small MS4 General Permit

(PRR040000/PRR04000F), shall continue to implement and, if applicable, submit to the EPA an updated SWMP under this general permit. The SWMP shall be submitted as required in Section 1.11. The permittee shall continue to operate under the conditions of the previous 2016 permit and existing SWMP until the authorization date of coverage of this permit.

b. Newly-regulated small MS4s
Operators of regulated small MS4s that were not required to obtain permit coverage under the previous NPDES 2016 general permit PRR040000/PRR04000F, have 180 days from the authorization under the general permit or within 180 days of being designated as a regulated small MS4 to develop and submit their NOI and SWMP.

c. Implementation of the SWMP
Existing small MS4 operators shall ensure full implementation of all elements in the SWMP, as stated in Section 1.11(b). For existing small MS4 operators that have not updated/modified the small MS4, shall implement any new elements in the revised SWMP as soon as practicable, but no later than five years from the authorization date of coverage of this permit. Previously-regulated MS4 operators shall continue to implement elements in the existing-approved SWMPs until granted coverage under this general permit, after which the revised SWMPs shall be implemented.

EPA may designate non-regulated small MS4s as a small MS4. These designated MS4s shall achieve full implementation of the SWMP as soon as practicable, but no later than five years from designation. Based on the 2020 Decennial Census, newly-regulated small MS4s must achieve full implementation of the SWMP as soon as practicable, but no later than five years from the authorization date of coverage of this permit.

### 2.3.2 Content of the SWMP

At a minimum, the permittee shall include the following information in its SWMP:

a. A measurable goal that includes the development of ordinances or other regulatory mechanisms providing the legal authority necessary to implement and enforce the requirements of this permit, including information on any limitations to the legal authority. These will be incorporated in a section or appendix of the SWMP.

b. A summary of written procedures describing how the permittee will implement the provisions in Sections 2.3 and 3.0 of this general permit.

c. A description of Minimum Control Measures (MCM) with measurable goals, including, as appropriate, the months and years in which the permittee will undertake required actions, including interim milestones and the frequency of the action for each MCM described in Section 2.4.1.

### 2.3.3 Legal Authority

2.3.3.1 Conventional small MS4s, as defined in Appendix A, such as municipalities

a. Within one year from the authorization date of coverage of this permit, the permittee shall review and revise, if needed, its relevant ordinance(s) or other regulatory mechanism(s), or shall adopt a new ordinance(s) or other regulatory mechanism(s) that provide the permittee with adequate legal authority to control pollutant discharges into, and from its small MS4 in order to meet the requirements of this general permit.

b. To be considered adequate, this legal authority must, at a minimum, address the following:

i. Authority to prohibit illicit discharges and illicit connections;

ii. Authority to respond to and contain other releases – Control the discharge of spills, and prohibit dumping or disposal of materials other than stormwater and allowable non-stormwater, pursuant to Section 1.4, into the small MS4;

iii. Authority to require compliance with conditions in the permittee's ordinances, permits, contracts, or orders;

iv. Authority to require installation, implementation, and maintenance of control measures;

v. Authority to receive and collect information, such as stormwater plans, inspection reports, and other information deemed necessary to assess compliance with this permit, from operators of construction sites, new or redeveloped land, and industrial and commercial facilities;

vi. Authority, as needed, to enter and inspect private property including facilities, equipment, practices, or operations related to stormwater discharges to the small MS4;

vii. Authority to respond to violations of the BMPs required by the small MS4;

viii. Authority to assess penalties, including monetary, civil, or criminal penalties; and

ix. Ability to enter into interagency or interlocal agreements, as necessary.

c. If the permittee does not have inspection or enforcement authority, and is unable to meet the goals of this general permit authority, then, unless otherwise stated in this general permit, the permittee shall perform the following actions in order to meet the goals of the permit:

i. Enter into interlocal agreements with municipalities where the small MS4 is located. These interlocal agreements must state the extent to which the municipality will be responsible for inspections and enforcement authority in order to meet the conditions of this general permit; or

ii. If it is not feasible for the permittee to enter into interlocal agreements, the permittee shall notify an adjacent MS4 operator with enforcement authority or EPA/State Agency, as needed, to report discharges or incidents that it cannot itself enforce against. In determining feasibility for entering into interlocal agreements, the permittee shall consider all factors, including, without limitation, financial considerations and the willingness

of the municipalities where the small MS4 is located.

2.3.3.2 Non-conventional small MS4s, as defined in Appendix A, include public universities, department of transportation (DOT) agencies, local sewer districts, federal facilities (e.g., hospitals, military installations), and other public State or local entities that own and operate a storm sewer system and/or stormwater pump stations.

a. Within one year from the authorization date of coverage of this permit, the permitted non-conventional MS4 shall review and revise, if needed, its relevant ordinance(s) or other regulatory mechanism(s), or shall adopt a new ordinance(s) or other regulatory mechanism(s) that provide the permittee with adequate legal authority to control pollutant discharges into and from its Non-conventional small MS4 in order to meet the requirements of this general permit.

b. Some non-conventional MS4s may have limited legal authority or employ a different type of enforcement mechanism than a city/county/municipality government to implement a SWMP component.
*Note: For example, a State DOT may not have the legal authority to enforce controls on illicit discharges into its system. Where the permittee lacks the authority to develop ordinances or to implement enforcement actions, the permittee shall exert compliance authority, either by contract, standard operating procedures (SOP), or memorandum of agreement, as required by this general permit for its facilities, employees, contractors, and any other entity over which it has operational control within the portion of the urbanized area under the jurisdiction of the permittee. For discharges from third party actions, the permittee shall perform inspections and exert enforcement authority to the capacity permitted by law.*

c. If the permittee does not have inspection or enforcement authority, and is unable to meet the goals of this general permit authority, then, unless otherwise stated in this general permit, the permittee shall perform the following actions in order to meet the goals of the permit:
   i. Enter into interlocal agreements with municipalities where the small MS4 is located. These interlocal agreements must state the extent to which the municipality will be responsible for inspections and enforcement authority in order to meet the conditions of this general permit; or,
   ii. If it is not feasible for the permittee to enter into interlocal agreements, the permittee shall notify an adjacent MS4 operator with enforcement authority or EPA/State Agency, as needed, to report discharges or incidents that it cannot itself enforce against. In determining feasibility for entering into interlocal agreements, the permittee shall consider all factors, including, without limitation, financial considerations and the willingness of the municipalities where the small MS4 area is located.

### 2.3.4 Resources

It is the permittee's responsibility to ensure that it has adequate resources and funding to implement the requirements of this permit.

### 2.3.5 Enforcement Measures and Tracking

Permittees with enforcement authority (i.e., conventional small MS4s) shall develop a standard operating procedure (SOP) to respond to violations to the extent allowable under the Commonwealth of Puerto Rico and local law. When the permittee does not have enforcement authority over the violator, and the violations continue after the violator has been notified of the violation by the permittee, the permittee shall notify the adjacent MS4 operator with enforcement authority or the EPA and PRDNER, and maintain documentation of such notification.

## 2.4 Requirements to Reduce Pollutants to the Maximum Extent Practicable (MEP)

The permittee shall reduce the discharge of pollutants from the MS4 to the maximum extent practicable (MEP), as set forth in Sections 2.4.2 through 2.4.7.

### 2.4.1 Minimum Control Measures

a. Permittees authorized under the 2016 Small MS4 General Permit shall continue to implement their existing SWMPs while updating their SWMPs pursuant to this permit. This permit does not extend the compliance deadlines set forth in the 2016 Small MS4 General Permit.

b. Implementation of one or more of the minimum control measures described in Sections 2.4.2-2.4.7 or other permit requirements may be shared with another entity (including another interconnected MS4), or the other entity may fully implement the measure or requirement, if the following requirements are satisfied:
   - The other entity, in fact, implements the control measure.
   - The particular control measure or component thereof undertaken by the other entity is at least as stringent as the corresponding permit requirement.
   - The other entity agrees to implement the control measure on the permittee's behalf. The annual reports must specify that the permittee is relying on another entity to satisfy some of its permit obligations and specify what those obligations are.
   - If the permittee is relying on another governmental entity regulated under 40 C.F.R. Part 122 to satisfy all of its permit obligations, including the obligation to file annual reports, the permittee shall note that fact in its NOI, but is not required to file annual reports.
   - The permittee remains responsible for compliance with all permit obligations if the other entity fails to implement the control measures (or components thereof), or fails to submit the required reports. The permittee may enter into a legally binding agreement with the other entity regarding the other entity's performance of control measures, but the permittee remains ultimately responsible for permit compliance.

### 2.4.2 Public Education and Outreach

The permittee shall implement an education program that includes educational goals based on

stormwater issues of significance within the small MS4 area. The program shall include a focus on pollutants of concern for impaired and TMDL waters, and priority waters that receive a discharge from the MS4. Priority waters include beaches, sensitive waterbodies, fishing areas, and drinking water supplies. The ultimate objective of a public education program is to increase knowledge and change behavior of the public so that pollutants in stormwater are reduced.

2.4.2.1 The permittee shall continue to implement the public education program required by the 2016 Small MS4 General Permit by distributing educational materials to the MS4 community. The educational program shall define educational goals, express specific messages, define the targeted audience for each message, and identify responsible parties for program implementation. If appropriate for the target audience, materials may be developed in a language other than English. At a minimum, the permittee shall develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public about the hazards associated with the illegal discharges and improper disposal of waste, and the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.

Existing permittees shall assess program elements that are described in its existing SWMP, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term. Newly regulated permittees shall fully implement their program by the end of this permit term. The program shall, at a minimum:

a. Define the goals and objectives of the program based on high priority community-wide issues (for example, reduction of fecal coliform in discharges from the small MS4, promoting previous techniques used to reduce and/or eliminate pollutants by the small MS4, or improving the quality of discharges to impaired waterbody of Appendix E);
b. Identify the target audience(s);
c. Develop or utilize appropriate educational materials, such as printed materials, billboard and mass transit advertisements, signage at select locations, radio advertisements, television advertisements, and websites; and
d. Determine cost effective and practical methods and procedures for distribution of materials.

2.4.2.2 Throughout the permit term, all permittees shall make the educational materials available at least annually so the program's message reaches the target audience(s).

2.4.2.3 All permittees shall review and update, as necessary, the SWMP and MCM implementation of public education and outreach procedures required by Section 2.3.2. Any changes must be reflected in the annual report. Such written procedures must be maintained, either on site or in the SWMP and made available for inspection by the EPA.

EPA has developed educational materials about environmental topics for the public and communities that are available at: https://cfpub.epa.gov/npstbx/index.html and https://espanol.epa.gov.

2.4.2.4 MS4 operators may partner with other MS4 operators to maximize the program and cost effectiveness of the required outreach program.

### 2.4.3 Public Involvement and Participation

All permittees shall involve the public, and comply with any Commonwealth of Puerto Rico and local public notice requirements for the planning and implementation activities related to developing and implementing the SWMP, except for correctional facilities, which are not required to implement the MCM under the SWMP.

Existing permittees shall assess program elements that are described in the existing SWMP, modify as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term. Newly regulated permittees shall fully implement their program by the end of this permit term. All permittees shall:

a. Where feasible, consider using public input (for example, the opportunity for public comment, or public meetings) in the implementation of the program;
b. Where feasible, create opportunities for citizens to participate in the implementation of control measures, such as stream clean-ups, storm drain stenciling, volunteer monitoring, volunteer "Adopt-A-Stream" programs, volunteer "Adopt-A-Road" programs, and educational activities;
c. Ensure the public can easily find information about the SWMP.

2.4.3.2 All public involvement and participation activities shall comply with the Commonwealth of Puerto Rico and local public notice requirements. The SWMP (consistent with Section 1.11.1), and all annual reports shall be available to the public. The permittee is encouraged to satisfy this requirement by posting records online.

2.4.3.2 During the permit term, the permittee shall provide the public an opportunity to participate in the review and implementation of the SWMP.

2.4.3.3 The permittee shall report on the activities undertaken to provide public participation opportunities, including compliance with Section 2.4.3.1. Public participation opportunities, pursuant to Section 2.4.3.2, may include, but are not limited to, websites; hotlines; clean-up teams; monitoring teams; or an advisory committee.

### 2.4.4 Illicit Discharge Detection and Elimination (IDDE) Program

All permittees shall develop, implement, and enforce a program to detect, investigate, and eliminate illicit discharges into the small MS4. The program shall include a plan to detect and address non-allowable non-stormwater discharges, including illegal dumping to the MS4 system. The permittee shall implement an IDDE program to systematically find and eliminate sources of non-allowable non-stormwater from the MS4 and implement procedures to prevent illicit connections and discharges.

Existing permittees shall assess program elements that are described in the existing SWMP, modify as necessary, and develop and implement new elements, as necessary, to continue

reducing the discharge of pollutants from the MS4 to the MEP. New elements must be fully implemented by the end of this permit term. Newly-regulated permittees shall fully implement their program by the end of this permit term.

2.4.4.1 Definitions and Prohibitions

The permittee shall prohibit illicit discharges and sanitary sewer overflows (SSOs) to its MS4 and require removal of such discharges consistent with Sections 2.4.4.2 and 2.4.4.4 of this permit. An SSO is a discharge of untreated sanitary wastewater from a sanitary sewer. An illicit discharge is any discharge to a municipal separate storm sewer that is not composed entirely of stormwater, except:

a. discharges authorized under a separate NPDES permit that authorize a discharge to the MS4 (discharges that are unauthorized under a municipal sewer system permit are considered illicit discharges if they are discharged to the MS4)
b. non-stormwater discharges allowed by Section 1.4

2.4.4.2 Elimination of Illicit Discharges

a. Illicit discharges to the MS4 are prohibited, and any such discharge violates this permit and remains a violation until eliminated.

b. Upon detection of an illicit discharge, the permittee shall eliminate the illicit discharge as expeditiously as possible. The MS4 shall identify, notify all responsible parties of any such discharge, and require immediate cessation of improper disposal practices in accordance with its legal authorities. Where elimination of an illicit discharge within 30 days of its identification as an illicit discharge is not possible, the permittee shall establish an expeditious schedule for its elimination and report the dates of identification and schedules for removal in the permittee's annual reports. The permittee shall immediately commence actions necessary for elimination. The permittee shall diligently pursue elimination of all illicit discharges. In the interim, the permittee shall take all reasonable and prudent measures to minimize the discharge of pollutants to its MS4.

c. The period between identification and elimination of an illicit discharge is not a grace period, and an illicit discharge to the MS4 remains a violation of the permit until eliminated.

2.4.4.3 Allowable Non-Stormwater Discharges

If the permittee identifies any of the sources of allowable non-stormwater discharges, listed in Section 1.4, as significant contributors of pollutants to the MS4, then the permittee shall implement measures to control these sources so they are no longer significant contributors of pollutants, and/or eliminate them entirely, consistent with Section 2.4.4.

2.4.4.4 Sanitary Sewer Overflows (SSOs)

a. Discharges from SSOs to the MS4 are prohibited and any such discharge violates this permit and remains a violation until eliminated. Upon detection, the permittee shall notify the Puerto Rico Aqueduct and Sewer Authority (PRASA), and any pertinent agency to help collaborate and eliminate SSOs as expeditiously as possible while taking interim

mitigation measures to minimize the discharge of pollutants to and from its MS4 until elimination is completed. In addition, the MS4 shall also coordinate with PRASA and any pertinent agency to implement cleanup measures to minimize impacts to human health and the environment associated with the SSO.
*Note: The permittee may want to contact PRASA as they may provide assistance in gathering SSO information.*

b. The permittee shall identify all known locations where SSOs have discharged to the MS4 within the previous five years and include the information in the SWMP. This information shall also include, if applicable, SSOs discharges during dry or wet weather, from inadequate conveyance capacities, and where interconnectivity of the storm and sanitary sewer infrastructure allows for communication of flow between the systems. Existing permittees must record the SSO inventory in accordance with the information listed below. For new permittees, within 120 days from the authorization date of coverage of this permit, the permittee shall develop an inventory of all identified SSOs indicating:
   - Location (approximate street crossing/address and receiving water, if any);
   - A clear statement of whether the discharge entered a surface water directly or entered the MS4;
   - Date(s) and time(s) of each known SSO occurrence (i.e., beginning and end of any known discharge);
   - Estimated volume(s) of the occurrence;
   - Description of the occurrence, including known or suspected cause(s);
   - Mitigation and corrective measures completed with dates implemented; and
   - Mitigation and corrective measures planned with implementation schedules.

The permittee shall maintain the inventory as a part of the SWMP and update the inventory at least annually.

c. In accordance with Section B.12 of Appendix B of this permit, upon becoming aware of a SSO discharge to the MS4, the permittee shall provide verbal notification to EPA at 787-977-5865, and PRASA at 787-620-2482 within 24 hours. Additionally, the permittee shall provide written notice to EPA and PRASA within five (5) days of becoming aware of the SSO occurrence and shall include the information in the updated inventory. The notice shall contain all of the information listed in 2.4.4.4.b.

d. The permittee shall include and update the SSO inventory in its annual report, including the status of mitigation and corrective measures implemented by the permittee to address each SSO identified pursuant to this part.

e. The period between identification and elimination of a discharge from the SSO to the MS4 is not a grace period, and such a discharge remains a violation of the permit until eliminated.

2.4.4.5 Continued Implementation of Existing SWMP
During the development of the new components of the IDDE program required by this permit,

permittees authorized by the 2016 Small MS4 General Permit shall continue to implement their existing IDDE program required by the 2016 Small MS4 General Permit to detect and eliminate illicit discharges to its MS4.

2.4.4.6 System mapping

The permittee shall continue developing a revised and more detailed map as required by the 2016 Small MS4 General Permit. This revised map of the MS4 shall be completed within three (3) years of the authorization under this permit. If the permittee is unable to complete the revised map within three (3) years, you need to submit a compliance work plan, as stated in Section 1.11(b).

a. The mapping shall include a depiction of the permittee's separate storm sewer system in the permit area. The mapping is intended to facilitate the identification of key infrastructure and factors influencing proper system operation, and the potential for illicit sanitary sewer discharges. The map shall include the required infrastructure and water resources information as indicated in Section 2.4.4.6.a.i, below, and shall include the information in Section 2.4.4.6.a.ii, below, where available. EPA also recommends the inclusion of additional items as indicated in Section 2.4.4.6.a.iii, below.

   i. Required mapping elements
      - Municipal separate storm sewer system;
      - outfalls and receiving waters (required by the 2006 and 2016 Small MS4 General Permit);
      - pipes;
      - open channel conveyances (swales, ditches, etc.);
      - catch basins;
      - manholes;
      - flood control pump stations;
      - interconnections with other MS4s;
      - municipally-owned stormwater treatment structures (e.g., detention and retention basins, infiltration systems, bioretention areas, water quality swales, gross particle separators, oil/water separators, or other proprietary systems);
      - Catchment delineations. For the purpose of this permit, a catchment is the area that drains to an individual outfall or interconnection, for use in priority rankings required in Section 2.4.4.8.c.; and
      - Waterbodies identified by name and include use impairments as identified in the Commonwealth of Puerto Rico's most current 303(d) list Found at www.epa.gov/tmdl/puerto-rico-impaired-waters-list.

   ii. Elements required where available
      - Municipal sanitary sewer system; and
      - Municipal combined sewer system, if applicable.

   iii. Recommended elements
      - Storm sewer material, size and age;
      - Sanitary sewer system material, size and age;

- Where a municipal sanitary sewer system exists, properties known or suspected to be served by a septic system, especially in high-density urban areas;
- Area where the permittee's MS4 has been or could be influenced by septic system discharges (e.g., areas with poor soils, or high ground water elevations unsuitable for conventional subsurface disposal systems);
- Seasonal high-water table elevations impacting sanitary alignments;
- Topography;
- Orthophotography (aerial photograph geometrically corrected such that the scale is uniform);
- Alignments, dates and representation of work completed (with legend) of past illicit discharge investigations (e.g., flow isolation, dye testing, CCTV); and
- Locations of suspected, confirmed and corrected illicit discharges (with dates and flow estimates).

b. The mapping may be produced by hand or through computer-aided methods (e.g., GIS). The required scale and detail of the map shall be appropriate to facilitate a rapid understanding of the system by the permittee and EPA. In addition, the mapping shall serve as a planning tool for the implementation and phasing of the IDDE program and demonstration of the extent of complete and planned investigations and corrections. The permittee shall update the mapping, as necessary, to reflect newly discovered information and required corrections or modifications.

c. The permittee shall continue to report on the progress towards the completion of the map required by this permit in each annual report. The permittee shall also provide an updated map, if applicable, along with the first annual report under this permit term that is due following the continuation of the 2016 Small MS4 general permit timeline.

2.4.4.7 Outfall Inventory

The permittee shall continue the outfall and interconnection inventory required by the 2016 Small MS4 general permit that identifies each outfall and interconnection discharging from the MS4, records the location and condition of each outfall and interconnection, and provides a framework for tracking inspections, screenings and other activities under the permittee's IDDE program.

a. An outfall means a point source as defined by 40 C.F.R. § 122.2, and is the point where the municipal separate storm sewer discharges to waters of the United States. An outfall does not include open conveyances connecting two municipal separate storm sewers or pipes, tunnels or other conveyances that connect segments of the same stream or other waters of the United States that are used to convey waters of the United States (40 C.F.R. § 122.26(b)(9)). However, it is strongly recommended that a permittee inspect all accessible portions of the system as part of this process. Culverts longer than a simple road crossing shall be included in the inventory unless the permittee can confirm that they are free of any connections and simply convey waters of the United States.

   An interconnection means the point where the permittee's MS4 discharges to another MS4 or other storm sewer system, through which the discharge is conveyed to waters of

the United States, or to another storm sewer system and eventually to a water of the United States.

b. The permittee should have accomplished its outfall inventory as required by the 2016 Small MS4 general permit. If this is not the case, the permittee shall submit a compliance work plan schedule, as required in Section 1.11(b), and complete its outfall inventory no later than one (1) year from the authorization of coverage of this permit and shall include the inventory in each annual report. The inventory shall be updated annually to include data collected in connection with the dry weather screening under Section 2.4.4.8.d, and other relevant inspections conducted by the permittee. The permittee shall physically label all MS4 outfall pipes (excluding interconnections) with their unique identifier within five (5) years after authorization of coverage of this permit, or if complying with the 2016 Small MS4 General Permit, then by one (1) year from the authorization date of coverage of this permit.

c. The inventory shall include the following information: unique identifier, receiving water, date of most recent inspection, dimensions, shape, material (concrete, PVC), spatial location (latitude and longitude with a minimum accuracy of +/-30 feet), physical condition and indicators of potential non-stormwater discharges (including presence or evidence of illicit connections, and sensory observations such as odor, color, turbidity, floatables, or oil sheen), field testing (e.g., ammonia strips, residual chlorine, surfactants tests, etc.), and any sampling/laboratory analysis of the most recent inspection. See, the Outfall Reconnaissance Inventory form in the IDDE manual.

2.4.4.8 IDDE Program Components

The IDDE program shall be documented in writing. The IDDE program shall include each of the elements described in Sections 2.4.4.8(a - h), unless the permittee provides a written explanation within the IDDE program as to why a particular element is not applicable to the permittee.

Notwithstanding the permittee's explanation, EPA may, at any time, determine that a particular element is in fact applicable to the permittee, and require the permittee to add it to the IDDE program. For new permittees, the written IDDE program shall be completed within one (1) year from the date of authorization under this permit. The existing permittees shall continue to implement the IDDE program in accordance with the goals and milestones set forth in Section 2.4.4.9, and as also required under the 2016 Small MS4 General Permit.

a. Legal Authority - The IDDE program shall provide that the permittee has adequate legal authority to accomplish the following tasks: prohibit illicit discharges; investigate suspected illicit discharges; eliminate illicit discharges, including discharges from properties not owned by or controlled by the MS4 that discharge into the MS4 system; and implement appropriate enforcement procedures and actions. Adequate legal authority consists of a currently effective ordinance, by-law, or other regulatory mechanism. For permittees authorized by the 2016 Small MS4 General Permit, the ordinance, by-law, or other regulatory mechanism was a requirement of the 2016 Small MS4 General Permit, and was required to be effective by one year from the date of authorization. The written

IDDE program shall include a reference or citation of the authority the permittee will use to implement all aspects of the IDDE program.

b. Statement of IDDE Program Responsibilities - The permittee shall establish a written statement that clearly identifies responsibilities with regard to eliminating illicit discharges. The statement shall identify the lead municipal agency(ies) or department(s) responsible for implementing the IDDE Program as well as any other agencies or departments that may be responsible for aspects of the program (e.g., board of health responsibilities for overseeing septic system construction; sanitary sewer system staff; inspectional services for enforcing plumbing codes; town counsel responsibilities in enforcement actions, among others). Where multiple departments and agencies have responsibilities with respect to the IDDE program, specific areas of responsibility shall be defined and the processes for coordination and data sharing shall be established and documented.

c. Assessment and Priority Ranking of Catchments –The permittee shall assess and priority rank the catchments, delineated as required by Section 2.4.4.6.a.i, in terms of their potential to have illicit discharges and SSOs, and the related public health significance. This ranking will determine the priority order for screening of outfalls and interconnections pursuant to Section 2.4.4.8.d, catchment investigations for evidence of illicit discharges and SSOs pursuant to Section 2.4.4.8.e, and provide the basis for determining permit milestones pursuant to Section 2.4.4.9.

   i. The permittee shall classify each catchment into one of the following categories:
      - *Excluded catchments*: Catchments with no potential for illicit discharges may be excluded from the IDDE program. This category is limited to roadway drainage in undeveloped areas with no dwellings and no sanitary sewers; drainage for athletic fields, parks or undeveloped green spaces and associated parking without services; cross-country drainage alignments (that neither cross nor are in proximity to sanitary sewer alignments) through undeveloped land.

      - *Problem Catchments*: Catchments with known or suspected contributions of illicit discharges based on existing information shall be designated as Problem Catchments. Problem Catchments need not be screened pursuant to Section 2.4.4.8.d, and shall be scheduled for catchment investigation pursuant to Section 2.4.4.8.e.

      - *High Priority Catchments*: Catchments that have not been classified as Problem Catchments and are discharging to an area of concern to public health due to proximity of public beaches, recreational areas, drinking water supplies or coral reefs; catchments determined by the permittee as high priority based on outfall/interconnection screening under Section 2.4.4.8.d. or Section 3.3.1 and catchment characteristics assessment under Section 2.4.4.8.c.ii.

        Any catchment where outfall/interconnection screening indicates sewer input based on olfactory/visual evidence or sampling results (ammonia ≥ 1 mg/l,

ammonia to potassium ratio ≥ 1.0, surfactants ≥ 0.25 mg/l, and bacteria levels greater than the water quality criteria applicable to the receiving water; or boron ≥ 0.35 mg/l, and detectable levels of chlorine) shall be ranked at the top of the High Priority Catchments category and scheduled for catchment investigation pursuant to Section 2.4.4.8.e.
*Note: The 2004 IDDE Manual, subchapter 12.4, presents guidance on four techniques to interpret indicator parameter data.*

- *Low Priority Catchments*: Catchments determined by the permittee as low priority based on outfall/interconnection screening under 2.4.4.8.d. and catchment characteristics assessment under Section 2.4.4.8.c.ii.

ii. The permittee shall priority rank catchments within each category (except for excluded catchments), based on screening factors. The permittee shall, at a minimum, consider the following screening factors:
   - Past discharge complaints and reports;
   - Poor dry weather receiving water quality - the following guidelines are recommended to identify waters as having a high illicit discharge potential: exceeding water quality standards for bacteria; ammonia-nitrogen levels greater or equal to 0.3 mg/l; total phosphorus levels greater than 0.40 mg/l; surfactants levels greater than or equal to 0.25 mg/l; or boron greater than 0.35 mg/l, and total nitrogen levels greater than 3.5 mg/l;
     *Note: The 2004 IDDE Manual, subchapter 12.7, provides guidance on stream monitoring data indicators that help field crews locate individual discharges within a specific stream reach. There is information on the above parameter indicators and possible cause of water quality problem.*
   - Density of generating sites - Generating sites are those places, including institutional, municipal, commercial, or industrial sites, with a potential to generate pollutants that could contribute to illicit discharges. Examples of these sites include, but are not limited to, car dealerships; car washes; gas stations; garden centers; and industrial manufacturing areas;
   - Age of surrounding development and infrastructure – Industrial areas greater than 40 years old and areas where the sanitary sewer system is more than 40 years old will probably have a high illicit discharge potential. Developments 20 years or younger will probably have a low illicit discharge potential;
   - Sewer conversion – Catchments that were once serviced by septic systems, but have been converted to sewer connections may have a high illicit discharge potential;
   - Historic combined sewer systems – Catchments that were once serviced by a combined sewer system, but have been separated may have a high illicit discharge potential;
   - Density of aging septic systems – Septic systems thirty years or older in residential land use areas are prone to have failures and may have a high illicit discharge potential; and
   - Culverted streams – any river or stream that is culverted for distances greater than a simple roadway crossing may be considered “high.”

The permittee may also consider the following factors for the evaluation of illicit discharges, although the factors may not necessarily be indicators of the presence of illicit connections or discharges coming from the storm sewer system:

- Waterbodies that receive a discharge from the MS4 and are drinking water supplies, shell fishing areas, beaches or waters used for contact recreation; and
- Impaired waterbodies that receive a discharge from the MS4, or waters with approved TMDLs applicable to the permittee, but the illicit discharges have the potential to contain the pollutant identified as the cause of impairment.

The permittee may add additional relevant factors, including location-specific screening factors, and, if so, the permittee shall include the following additional factors in its written IDDE program:

iii. An initial illicit discharge potential assessment and priority ranking based on existing information should have been completed within one (1) year from the authorization under the 2016 Small MS4 General Permit. The permittee shall update its assessment and priority ranking annually based on catchment delineations pursuant to Section 2.4.4.6, the results of screening pursuant to 2.4.4.8.d, and other new relevant information. The permittee shall provide a listing of all catchments and the results of the ranking for each catchment in each annual report. For each catchment being investigated, the permittee shall also provide in its annual report: (1) a summary of evidence of known or suspected illicit discharges and SSOs; (2) completed, ongoing or planned corrective measures addressing confirmed illicit discharges and SSOs; and (3) a schedule for completing and verifying measures correcting the confirmed illicit discharges and SSOs.

d. Outfall and Interconnection Screening and Sampling – The IDDE program shall include a written procedure for dry and wet weather screening and sampling of all outfalls and interconnections from the MS4 for evidence of illicit discharges and SSOs. This screening procedure shall be used for:
   - baseline outfall and interconnection screening pursuant to 2.4.4.9.a (dry weather);
   - confirmatory screenings pursuant to 2.4.4.8.f (dry and/or wet weather depending on catchment characteristics); and
   - follow-up screening pursuant to 2.4.4.8.g (dry and/or wet weather depending on catchment characteristics).

i. The screening and sampling procedure shall include procedures for sample collection, use of field kits, storage and conveyance of samples (including relevant hold times), and relevant sample parameters (see IDDE Manual https://www.epa.gov/npdes/stormwater-discharges-municipal-sources-developing-ms4-program).

ii. If an outfall is inaccessible or submerged, the permittee shall proceed to the first accessible upstream manhole or structure for the observation and sampling, and report

the location with the screening results. If an interconnection is inaccessible or submerged, interconnection screening shall occur at the first accessible location within the permittee's system up gradient of the interconnection.

iii. Dry weather screening and sampling shall proceed only when no more than 0.1 inches of rainfall has occurred in the previous 24-hour period. When a flow is observed, a sample of the flow shall be collected and analyzed for the parameters listed in 2.4.4.8.d.v. If no dry weather flow is observed, the permittee shall record the condition of the outfall and other relevant information (see Section 2.4.4.7). If no flow is observed, but evidence of dry weather flow exists, the permittee shall revisit the outfall during dry weather within one week of the initial observation, and if practicable, perform a second dry weather screening and sample, if any flow is observed. The permittee shall identify in the annual report any other necessary follow-up actions to identify the source of any apparent intermittent flow not sampled.

iv. Wet weather screening and sampling shall proceed during or after a storm event of sufficient depth or intensity to produce a stormwater discharge. The permit does not require a minimum rainfall event prior to wet weather screening. However, the purpose of wet weather screening and sampling under the IDDE program is to identify illicit discharges that may activate or become evident during wet weather. Permittees may incorporate provisions that assist in targeting such discharges, including avoiding sampling during the initial period of discharge ("first flush"), and/or identifying minimum storm event intensities likely to trigger sanitary sewer interconnections.

v. Samples shall be analyzed, at a minimum, for surfactants, ammonia, potassium, chlorine, conductivity, salinity, Enterococci, total coliform and fecal coliform (for freshwater receiving water), or enterococcus and fecal coliform (for saline or brackish receiving water), surfactants (such as MBAS), temperature, and any other pollutants pursuant to Section 3.3.1. All analyses, with the exception of indicator bacteria and surfactants, can be performed with field test kits or field instrumentation. In addition, where there is a direct discharge into an impaired water, or to a water that is subject to an approved TMDL (see Appendix E), the sample shall be analyzed for the pollutants identified as the cause of the impairment.

vi. Catchments where there is relevant information indicating sanitary sewer inputs to the MS4 or sampling results where surfactants ≥ 0.25 mg/l, or boron > 0.35 mg/l, ammonia ≥ 1.0 mg/l, and bacteria levels greater than the water quality criteria applicable to the receiving water shall be considered highly likely to contain illicit discharges from sanitary sources, and such catchments shall be ranked at the top of the High Priority Catchments category for investigation. (See Fact Sheet, Figure 1. Flow Chart to Identify Illicit Discharges in Residential Watersheds).
*Note: Nearly every storm sewer that EPA has sampled in San Juan showed levels of bacteria in excess of the Water Quality Criteria.*

e. Catchment Investigation Procedure

The permittee shall have a written systematic procedure for catchment investigation by the first annual report after the authorization date of coverage under this permit, that includes: (1) a review of mapping and historic plans and records for the catchment; (2) a manhole inspection methodology; and (3) procedures to isolate and confirm sources of illicit discharges, as set forth below:

i. For each catchment being investigated, the permittee shall review relevant mapping and historic plans and records to the extent available, including, but not limited to, plans related to the construction of the storm drain and of sanitary sewers in the catchment, prior work performed on the storm drain or sanitary sewers, board of health or other municipal data on septic system failures, required upgrades, and complaint records related to SSOs, including those reported by EPA, PRDNER and PRASA, sanitary sewer surcharges, and septic system breakouts. This review shall be used to identify areas within the catchment with higher potential for illicit connections and System Vulnerability Factors (as outlined below) that indicate a risk of sanitary or septic system inputs to the MS4 under dry and wet weather conditions. The permittee shall identify and record the presence of any of the following specific System Vulnerability Factors and other factors that may arise during dry and wet weather conditions:

- History of SSOs, including, but not limited to, those resulting from wet weather, high water table, or fat/oil/grease blockages;
- Sewer pump/lift stations, siphons, or known sanitary sewer restrictions where power/equipment failures or blockages could readily result in SSOs;
- Inadequate sanitary sewer level of service (LOS) resulting in regular surcharging, customer back-ups, or frequent customer complaints;
- Common or twin-invert manholes serving storm and sanitary sewer alignments;
- Common trench construction serving both storm and sanitary sewer alignments;
- Crossings of storm and sanitary sewer alignments;
- Sanitary sewer alignments known or suspected to have been constructed with an underdrain system;
- Sanitary sewer infrastructure defects such as leaking service laterals, cracked, broken, or offset sanitary infrastructure, directly piped connections between storm drain and sanitary sewer infrastructure, or other vulnerability factors identified through Inflow/Infiltration Analyses, Sanitary Sewer Evaluation Surveys, or other infrastructure investigations;
- Areas formerly served by combined sewer systems;
- Any sanitary sewer and storm drain infrastructure greater than 40 years old in medium and densely developed areas;
- Widespread survey of septic system locations (indicative of inadequate soils, water table separation near waterbodies, or other physical constraints of the area rather than poor owner maintenance);

- History of multiple Board of Health actions addressing widespread septic system failures (indicative of inadequate soils, water table separation, or other physical constraints of the area rather that poor owner maintenance).

The permittee shall document the presence or absence of System Vulnerability Factors for each catchment, retain this documentation as part of its IDDE program, and report this information in Annual Reports. Where System Vulnerability Factors are present, the catchment shall be investigated pursuant to sections 2.4.4.8.e.ii(1) and 2.4.4.8.e.ii(2), below.

ii. The manhole inspection methodology shall describe a storm drain network investigation that involves systematically and progressively observing, sampling (as required below) and evaluating key junction manholes (see definition in Appendix A), in the MS4 to narrow the location of suspected illicit discharges or SSOs to an isolated pipe segment between two manholes, locate evidence of illicit discharges or SSOs that may not be evident at the outfall under all circumstances, and confirm or identify potential system vulnerability factors. The permittee is responsible for selecting key junction manholes in a manner such that the distance between key junction manholes is appropriate to ensure a thorough assessment of its system.

The manhole inspection methodology may either start from the outfall and work up the system or start from the upper parts of the catchment and work down the system or be a combination of both practices. Either method shall, at a minimum, include an investigation of each key junction manhole within the MS4, even where no evidence of an illicit discharge is observed at the outfall. The Catchment Investigation Procedure must describe the method the permittee will use.

(1) Dry weather investigation - Key junction manholes shall be opened and inspected for visual and olfactory evidence of illicit connections (e.g., excrement, toilet paper, gray filamentous bacterial growth, or sanitary products present). If flow is observed, the permittee shall sample the flow at a minimum for ammonia, potassium, chlorine and surfactants, and can use field kits for these analyses. Additional indicator sampling may assist in determining potential sources (e.g., bacteria for sanitary flows, conductivity to detect tidal backwater, etc.). Where sampling results, or visual or olfactory evidence indicate potential illicit discharges or SSOs, the area draining to the junction manhole shall be flagged for further investigation, through upstream junction manhole investigation and/or isolation and confirmation of sources pursuant to 2.4.4.8.e.ii.

Manhole inspections in all areas shall also include identifying System Vulnerability Factors including common (twin invert) manholes, directly piped connections between storm drains and sanitary sewer infrastructure, common weir walls, sanitary sewer underdrain connections and other structural vulnerabilities where sanitary discharges could enter the storm drain

system during wet weather. Where present, such System Vulnerability Factors shall be investigated pursuant to section (2), below.

(2) Wet weather investigation – Where the review of mapping and historic plans and records and/or manhole inspections indicate the presence of one or more System Vulnerability Factors as listed in Section 2.4.4.8.e.i above, the permittee shall also inspect and sample under wet weather conditions to the extent necessary to determine whether wet weather-induced high flows in sanitary sewers or high groundwater in areas served by septic systems result in discharges of sanitary flow to the MS4. The permittee shall conduct at least one wet weather screening and sampling at the outfall for any catchment where one or more System Vulnerability Factors are present. This sampling can be done upon completion of any dry weather investigation, but must be completed before catchment investigation is marked as complete. All data shall be recorded and reported in each annual report.

iii. Isolation and Source Verification Procedures – The permittee shall have in place, by the first annual report, procedures to be used to isolate and confirm sources where manhole investigations, other physical evidence, or screening has identified MS4 alignments to be influenced by illicit discharges or SSOs. These shall include isolation of the drainage area for implementation of more detailed investigations, inspection of additional manholes along the alignment to refine the location of potential contaminant sources, and methods such as caulk damns, targeted internal plumbing inspections, dye testing, video inspections, or smoke testing to isolate and confirm the sources.

f. Removal and Confirmation - When the source of an illicit discharge or SSO is identified and confirmed, the permittee shall exercise its authority as necessary to require its removal pursuant to Section 2.4.4.2 or 2.4.4.4. For each confirmed source the permittee shall include in the annual report the following information: the location of the discharge and its source(s); a description of the discharge; the method of discovery; the date of discovery; the date of elimination, mitigation or enforcement action; and an estimate of the volume of flow removed.

Within one year of removal of all identified illicit discharge and SSO sources, the permittee must perform confirmatory outfall screening or interconnection screening. The confirmatory screening shall be conducted in dry weather unless System Vulnerability Factors have been identified in the catchment pursuant to 2.4.4.8.e.i, in which case both dry weather and wet weather confirmatory screening shall be conducted. If confirmatory screening indicates evidence of additional illicit discharges, the catchment shall be scheduled for additional investigation. Confirmatory screening is not required in catchments where no illicit discharges or System Vulnerability Factors have been identified, and no previous screening indicated suspicious flows.

g. Follow-up Screening – Upon completion of catchment investigation pursuant to Section 2.4.4.8.e., and illicit discharge removal and confirmation (if necessary) pursuant to

Section 2.4.4.8.f., the catchment outfall or interconnection shall be scheduled for follow-up screening within five years, or sooner, as determined by the permittee based on the catchment's illicit discharge priority. Follow-up screening shall consist of dry weather screening and sampling, except that wet weather screening and sampling shall also be required in catchments where wet weather screening was required by Section 2.4.4.8.e.ii(2).

h. Illicit Discharge Prevention Procedures - The permittee shall, by the first annual report, implement mechanisms and procedures designed to prevent illicit discharges and SSOs, such as: spill response and prevention procedures, including identification of spills; reporting procedures; containment procedures; documentation; and public awareness (this may be a part of the education program required by Section 2.4.2); reporting (hotlines); and training of public employees involved in the IDDE program on ways to identify potential illicit discharges and SSOs.

2.4.4.9 IDDE Program Implementation Goal and Milestones

The permittee shall continue to implement the IDDE Program, required under the 2016 Small MS4 General Permit, to meet the following goals and milestones:

a. The permittee shall complete dry weather screening and sampling (where flowing) of every MS4 outfall and interconnection (except Excluded and Problem Catchments) no later than three years from the authorization date of coverage of this permit. The permittee may rely on screening conducted under the 2016 and 2006 Small MS4 General Permit, pursuant to an enforcement action, or by the State to the extent that it meets the requirements of Section 2.4.4.8. All data shall be reported in each annual report. Permittees that have conducted substantially equivalent monitoring as required by Section 2.4.4.8.d, or an EPA enforcement action can request an exemption from the requirements of 2.4.4.8.d by submitting a written request to EPA and retaining exemption approval from EPA as part of the SWMP. Until the permittee receives formal written approval of the exemption from Section 2.4.4.8.d from EPA, the permittee shall remain subject to all requirements of Section 2.4.4.8.d.

b. The permittee shall continue to implement the screening and sampling investigations procedure, as required under the 2016 Small MS4 General Permit. If the permittee does not have a procedure, the permittee shall begin the screening and sampling investigations using the procedure developed in accordance with Section 2.4.4.8.e. within three months of investigation procedure finalization and no later than 15 months (1 year and 3 months) from the authorization date of coverage under this permit, and shall make continued progress each year toward meeting the milestones of section 2.4.4.9.c. below. In accordance with Section 2.4.4.5, the permittee shall continue investigation, including Problem Catchments, using its existing IDDE program until such time as the procedure under 2.4.4.8.d is developed.

c. The permittee shall continue to implement the Catchment Investigation Procedure in every catchment of the MS4, as required under the 2016 Small MS4 General Permit, even where dry weather screening does not indicate evidence of illicit discharges. The

permittee shall implement the procedure in Problem Catchments, and those catchments with the highest ranking in the Assessment of Priority Catchments pursuant to 2.4.4.8.c. For purposes of these milestones, a catchment investigation is considered complete if a permittee has completed all elements of 2.4.4.8.e. Implementation of the Catchment Investigation Procedure shall comply with the following milestones:

i. The permittee was required to complete the Catchment Investigation Procedure in 100% of the MS4 area served by Problem Catchments by the end of the permit term of the 2016 Small MS4 General Permit. If not, the permittee must submit a compliance plan as stated in Part 1.11.b of this permit, and the plan must not be extended beyond five years of the authorization date of coverage of this permit.

ii. The permittee shall implement the Catchment Investigation Procedure in every catchment of the MS4 where information indicates sewer input, including outfall/interconnection screening that indicates sewer input based on olfactory/visual evidence or sampling results (ammonia to potassium ratio ≥ 1.0, surfactants ≥ 0.25 mg/l, and bacteria levels greater than the water quality criteria applicable to the receiving water; or ammonia ≥ 1.0 mg/l, surfactants ≥ 0.25 mg/l, or boron ≥0.35 mg/l, and detectable levels of chlorine) within five (5) years of the authorization date of coverage of this permit.

iii. The permittee shall complete the Catchment Investigation Procedure in 40% of the area served by all MS4 catchments within five (5) years of the authorization date of coverage of this permit, and in 100% of the area served by all MS4 catchments within ten (10) years of the authorization date of coverage of this permit. The permittee may count the area of low priority catchments in calculating the percentages only if the Catchment Investigation has been started in all other MS4 catchments (i.e., High Priority, Problem and Excluded Catchment). For the purposes of this Section, catchment investigations that have been started, include those where provisions of Section 2.4.4.8.e.i-ii have been completed.

d. Where catchments do not contain key junction manholes, the dry weather screening and sampling shall be considered as meeting the manhole inspection requirement. In these catchments dry weather screenings that indicate potential presence of illicit discharges shall be further investigated pursuant to Section 2.4.4.8.e.iii. Investigations in these catchments may be considered complete where dry weather screening reveals: no flow, no evidence of illicit discharges or SSOs as indicated through sampling results or visual or olfactory means, and no wet weather System Vulnerability Factors are identified.

e. The permittee shall track progress towards these milestones in each annual report.

2.4.4.10 Indicators of IDDE Program Progress

The permittee shall define or describe indicators for tracking program success. At a minimum, indicators shall include measures that demonstrate efforts to locate illicit discharges, the number of SSOs and illicit discharges identified and removed, the percentage and area in acres of the catchment area served by the MS4 evaluated using the catchment investigation procedure, and

volume of sewage removed. The permittee shall evaluate and report the overall effectiveness of the program based on the tracking indicators in the annual report.

2.4.4.11 IDDE Training
The permittee shall, at a minimum, annually provide training to employees involved in the IDDE program. Such training should be about how to implement and track the progress of the program, including how to recognize illicit discharges and SSOs. The permittee shall report on the frequency and type of employee training in the annual report.

### 2.4.5 Construction Site Stormwater Runoff Control

All permittees shall develop, implement and enforce a program requiring operators of small and large construction activities, as defined in Appendix A (Definitions) of this general permit, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP. The program shall include the development and implementation of an ordinance or other regulatory mechanism, as well as sanctions to ensure compliance to the extent allowable under the Commonwealth of Puerto Rico and/or local law, to require erosion and sediment control.

Existing permittees shall assess program elements that are described in the existing SWMP, modify, as necessary, and develop and implement new elements, as necessary, to continue reducing the discharge of pollutants from the MS4 to the MEP. New elements shall be fully implemented immediately. Newly-regulated permittees shall fully implement the program by the end of this permit term.

2.4.5.1 Permittees shall implement and enforce a program to reduce pollutants in any stormwater runoff discharged to the MS4 from construction activities that result in a land disturbance of greater than or equal to one acre. The permittee's program shall include disturbances less than one acre if that disturbance is part of a larger common plan of development or sale that would disturb one acre or more. Permittees authorized under the 2016 Small MS4 General Permit shall continue to implement their existing programs and shall modify them, as necessary, to meet the requirements of this Construction Site Stormwater Runoff Control Section.

2.4.5.2 The permittee does not need to apply its construction program requirements to projects that receive a waiver from EPA under the provisions of 40 C.F.R. § 122.26(b)(15)(i).

2.4.5.3 The construction site stormwater runoff control program shall include the elements in Sections a. through j. of this Section:

a. An ordinance or other regulatory mechanism that requires the use of sediment and erosion control practices at construction sites. The development of an ordinance or other regulatory mechanism was a requirement of 40 C.F.R. § 122.34, and was required to be effective by November 6, 2011 (the expiration date of the 2006 Small MS4 General Permit).

b. Requirements for construction operators to implement a sediment and erosion control program to the extent allowable by the Commonwealth of Puerto Rico and federal law. The program shall include BMPs appropriate for the conditions at the construction site. The program may include references to BMP design standards in PRDNER manuals or design standards specific to the MS4. EPA supports and encourages the use of design standards in local programs. Examples of appropriate sediment and erosion control measures for construction sites include local requirements to:
   i. Minimize the amount of disturbed area and protect natural resources;
   ii. Stabilize sites when projects are complete or operations have temporarily ceased;
   iii. Protect slopes on the construction site;
   iv. Protect all storm drain inlets and armor all newly-constructed outlets;
   v. Use perimeter controls at the site;
   vi. Stabilize construction site entrances and exits to prevent off-site tracking; and
   vii. Inspect stormwater controls at consistent intervals.

c. Requirements to control wastes and prohibit discharges, into the MS4, including but not limited to:
   i. Wastewater from washout of concrete and wastewater from water well drilling operations, unless managed by an appropriate control;
   ii. Wastewater from washout and cleanout of stucco, paint, from release oils, and other construction materials;
   iii. Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance;
   iv. Soaps or solvents used in vehicle and equipment washing; and
   v. Discharges from dewatering activities, including discharges from dewatering of trenches and excavations, unless managed by appropriate BMPs.

d. Construction plan review procedures. To the extent allowable by the Commonwealth of Puerto Rico and local law, permittees must maintain and implement site plan review procedures that describe which plans will be reviewed as well as when an operator may begin construction. If not already existing, the procedure for site plan review shall be completed within one (1) year from the authorization date of coverage of this permit. Site plan review shall include a review by the permittee of the site design, the planned operations at the construction site, planned BMPs during the construction phase, and the planned BMPs to be used to manage runoff created after development. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors, and located within the permittee's regulated area. The review procedure must incorporate the following requirements:
   i. The site plan review procedures must incorporate consideration of potential water quality impacts;
   ii. The permittee shall not approve any plans unless the plans contain appropriate site specific construction site control measures that, at a minimum, meet the requirements described in Appendix A (Definition) of the current NPDES CGP and Puerto Rico's Sediment and Erosion Control Plan (SEC Plan); and

iii. The permittee may require and accept a plan, such as a stormwater pollution prevention plan (SWPPP), which has been developed pursuant to the current CGP, and SEC Plan.

e. Procedures for pre-construction review. To the extent allowable by the Commonwealth of Puerto Rico and local law, permittees must maintain and implement pre-construction review procedures that describe which environmental requirements for the construction project are applicable, including the environmental permits, as well as establishing the responsible party (e.g., owner, developer, contractor, among others) of the construction project. If not already existing, the procedure for pre-construction review shall be completed within one (1) year from the authorization date of coverage of this permit. Site plan review shall include a review by the permittee of the required construction related permits, site design size, stormwater discharges, the planned operations design at the construction site, planned BMPs design during the construction phase, and the planned BMPs design to be used to manage runoff created after development. For those permittees without legal authority to enforce site plan reviews, this requirement is limited to those sites operated by the permittee and its contractors, and located within the small MS4 area. The review procedure must incorporate the following requirements:
    i. Determine which permit/(s) is/(are) required and who is responsible;
    ii. Determine the permitting authority/(ies);
    iii. Submittal of a Notice of Intent or equivalent application;
    iv. The development of a stormwater pollution prevention plan (SWPPP);
    v. Determination of the receiving waters coverage for Total Maximum Daily Loads (TMDLs) when applicable; and
    vi. Determine compliance with the Endangered Species Act and the National Historic Preservation Act requirements when applicable.

f. Construction Site Inspections and Enforcement. To the extent allowable by the Commonwealth of Puerto Rico and local law, all permittees shall implement written procedures for inspecting large and small construction projects for sediment and erosion control measures. Development of procedures for site inspection and enforcement of control measures was a requirement of 40 C.F.R. § 122.34, and was required to be effective by November 6, 2011 (the expiration date of the 2006 Small MS4 General Permit). If not already existing, these written procedures shall be developed and incorporated into the SWMP and reported within the next annual report from the authorization date of coverage of this permit. Permittees without legal authority to inspect construction sites shall at a minimum conduct inspection of sites operated by the permittee or its contractors, and that are located in the Small MS4 area.
    i. Inspections must occur at a frequency determined by the permittee, based on the evaluation of factors that are a threat to water quality, such as: soil erosion potential; site slope; project size and type; sensitivity of receiving waterbodies; proximity to receiving waterbodies; non-stormwater discharges; and past records of non-compliance by the operators of the construction site.
    ii. Inspections must occur during the active construction phase and include the following:

(1) Determine whether the site has appropriate coverage under the current NPDES CGP, and PRDNER SEC Plan. If no coverage exists, notify the permittee of the need for permit coverage;
(2) Conduct a thorough site inspection to determine if control measures have been selected, installed, implemented, and maintained according to the small MS4's requirements;
(3) Assess compliance with the permittee's ordinances and other regulations; and
(4) Provide a written or electronic inspection report.

iii. Based on site inspection findings, all permittees shall take all necessary follow-up actions (for example, follow-up-inspections or enforcement) to ensure compliance with permit requirements and the SWMP. These follow-up and enforcement actions must be tracked and maintained for review by the EPA and PRDNER. This information shall be included as part of each annual report required by Section 3.4.

For non-conventional small MS4s with no enforcement authority, the permittee shall notify the adjacent MS4 operator with enforcement authority as well as EPA and PRDNER.

g. Procedures for receipt and consideration of information submitted by the public.

h. Site plan review procedures shall include evaluation of opportunities for use of low impact design and green infrastructure. If not already existing, these procedures shall be developed within one (1) year from the authorization date of coverage of this permit. When the opportunity exists, the permittee shall encourage project proponents to incorporate these practices into the site design.

i. MS4 Staff Training. Permittees shall ensure that all staff whose primary job duties are related to implementing the construction stormwater program (including permitting, plan review, construction site inspections, and enforcement) are informed or trained to conduct these activities. The training may be conducted by the permittee or by outside trainers.

2.4.5.4 Construction Site Inventory - Permittees shall maintain an inventory of all permitted active public and private construction sites, as notified to the small MS4 by submittal of copy of an NOI or a small construction site notice, that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre, if part of a larger common plan or development or sale. The permittee shall make this inventory available to the permitting authority upon request.

### 2.4.6 Post-Construction Stormwater Management in New Development and Redevelopment

Permittees shall develop, implement and enforce a program, to the extent allowable under the Commonwealth of Puerto Rico and local law, to control stormwater discharges from new development and redeveloped sites that discharge into the small MS4 and disturb one acre or more, including projects that disturb less than one acre that are part of a larger common plan

of development or sale. The program must be established for private and public development sites. The program may utilize an offsite mitigation and payment in lieu of components to address this requirement.

Existing permittees shall assess program elements that are described in the existing SWMP, modify, as necessary, to continue reducing the discharge of pollutants from the small MS4 to the MEP and provide training to staff. The new development/redevelopment program shall include an ordinance or regulatory mechanism that regulates runoff from new development and redevelopment projects. Development of the ordinance or other regulatory mechanism was a requirement of 40 C.F.R. § 122.34, and was required to be effective by November 6, 2011 (the expiration date of the 2006 Small MS4 General Permit). Modifications shall be submitted within one (1) year from the authorization date of coverage of this permit. New elements shall be implemented immediately after submitting to EPA. Newly regulated permittees shall fully implement the program within five (5) years from the authorization date of coverage of this permit.

2.4.6.1 Permittees shall use an ordinance or other regulatory mechanism to address post-construction runoff from new development and redevelopment projects to the extent allowable under the Commonwealth of Puerto Rico and local law, and local development standards. The permittees shall establish, implement, and enforce a requirement, that owners or operators of new development and redeveloped sites design, install, implement, and maintain a combination of structural and non-structural BMPs appropriate for the community and protect water quality. If the construction of permanent structures is not feasible due to space limitations, health and safety concerns, cost effectiveness, or highway construction codes, the permittee may propose an alternative approach to the permitting authority. Newly regulated permittees shall have fully implemented the program within five (5) years from the authorization date of coverage of this permit.

2.4.6.2 The new development/redevelopment program shall include projects less than one acre, if the project is part of a larger common plan of development or redevelopment which disturbs one or more acres.

2.4.6.3 The permittee's new development/redevelopment program shall have procedures to ensure that any stormwater controls or management practices for new development and redevelopment will prevent or minimize impacts to water quality. These procedures may also include requirements to avoid disturbance of areas susceptible to erosion and sediment loss; requirements to preserve areas in the municipality that provide important water quality benefits; requirements to implement measures for flood control; and requirements to protect the integrity of natural resources. If practicable, for new development or redevelopment projects greater than one acre, the program shall include a process to require the implementation of low impact development practices that infiltrate, evapotranspire, or capture for reuse the first one inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation.

2.4.6.4 All permittees shall include in the new development/redevelopment program the requirements described in Sections 2.4.6.4.a–c, below:

a. All permittees shall review and update, as necessary, the SWMP and MCM implementation procedures required by Section 2.4.1. Any changes shall be reflected in the annual report. Such written procedures shall be maintained in a separate document on site or in the SWMP, and be made available for inspection by the permitting authority;
b. All permittees shall document and maintain records of enforcement actions and make them available for review by the permitting authority; and
c. Long-Term Maintenance of Post-Construction Stormwater Control Measures. All permittees shall, to the extent allowable under the Commonwealth of Puerto Rico and local law, ensure the long-term operation and maintenance of structural stormwater control measures installed through one or both of the following approaches:
    i. Maintenance performed by the permittee. See Section 2.4.7.
    ii. Maintenance performed by the owner or operator of a new development or redeveloped site under a maintenance plan. The maintenance plan must be filed in the real property records of the municipality in which the property is located. The permittee shall require the owner or operator of any new development or redeveloped site to develop and implement a maintenance plan addressing maintenance requirements for any structural control measures installed on site. The permittee shall require operation and maintenance performed to be documented and retained on site, such as at the offices of the owner or operator, and made available for review by the small MS4's employees.

2.4.6.5 Inspections - Permittees shall develop and implement an inspection program to ensure that all post construction stormwater control measures are operating correctly and are being maintained as required consistent with its applicable maintenance plan. For small MS4s with limited enforcement authority, this requirement applies to the structural controls owned and operated by the small MS4 or its contractors that perform these activities within the small MS4's regulated area.

a. Inspection Reports - The permittee shall document its inspection findings in an inspection report and make them available for review by the permitting authority.

2.4.6.6 The post-construction stormwater management in new development and redevelopment programs shall include written procedures for Section 2.4.6.1 through 2.4.6.5.

### 2.4.7 Pollution Prevention and Good Housekeeping for Municipal Operations

Permittees shall develop and implement an operation and maintenance program, including an employee training component that has the ultimate goal of preventing or reducing pollutant runoff from municipal activities and municipally-owned areas, including, but not limited to, park and open space maintenance; street, road, or highway maintenance; fleet and building maintenance; stormwater system maintenance; new construction and land disturbances; municipal parking lots; vehicle and equipment maintenance and storage yards; and waste transfer stations, among others.

Existing permittees shall assess program elements that were described in the existing SWMP, modify, as necessary, and develop and implement new elements, as necessary, to continue

reducing the discharges of pollutants from the small MS4 to the MEP. Newly-regulated permittees shall fully implement the program within five (5) years from the authorization date of coverage of this permit. See also Section 2.3.1.1.c.

2.4.7.1 Operations and Maintenance (O&M) Programs

The permittee will continue to implement the O&M procedures that were required during the first year of authorization under the 2016 Small MS4 General Permit. The permittee shall have, if not already developed, a written operations and maintenance procedures for the municipal activities listed below in Sections 2.4.7.1.a–c. These written O&M procedures shall be included as part of the SWMP as specified in Section 1.11.

The permittee shall keep an up-to-date inventory of all facilities, as required within the first six (6) months of the date of authorization of the 2016 Small MS4 General Permit. The permittee shall review this inventory annually, and update, as necessary. The permittee shall ensure staff training to meet developed procedures.

a. Parks and open space: establish procedures to address the proper use, storage, and disposal of pesticides, herbicides, and fertilizers (PHF), including minimizing the use of these products and using them only in accordance with the manufacturer's instruction. Evaluate lawn maintenance and landscaping activities to ensure practices are protective of water quality. Protective practices include, reduced use of PHFs, integrated pest management (IPM), recycling or proper disposal of lawn clippings and other vegetative waste, and use of native and drought resistant landscaping materials. Establish procedures for management of trash containers at parks (i.e., scheduled cleanings; sufficient number of trash containers), and for management of signage placement in areas where there is a concern about the proper disposal of pet wastes.

b. Buildings and facilities where pollutants are exposed to stormwater runoff: this includes schools (to the extent they are permittee-owned or operated), town offices, police, and fire stations, municipal pools, parking garages, and other permittee-owned or operated buildings or facilities. Evaluate the use, storage, and disposal of petroleum products and other potential stormwater pollutants. Provide employee training, as necessary, so that those responsible for handling these products know proper procedures. Ensure that Spill Prevention Plans are in place, if applicable, and coordinate with the fire department, as necessary. Develop management procedures for dumpsters and other waste management equipment. Sweep parking lots and keep areas surrounding the facilities clean to reduce runoff of pollutants.

c. Vehicles and Equipment: establish procedures for the storage of permittee vehicles. Vehicles with fluid leaks shall be stored indoors or in a contained area until the vehicles are repaired. Evaluate fueling areas owned by the permittee or used for the permittee's vehicles. If possible, place fueling areas under cover to minimize exposure. Establish procedures to ensure that vehicle wash waters are not discharged to the municipal storm sewer system or to surface waters. This permit does not authorize such discharges.

d. Infrastructure Operations and Maintenance

1. The permittee shall continue to implement the established written procedures, required during the first year of the date of authorization of the 2016 Small MS4 General Permit. The required written program must detail the activities and procedures the permittee will implement so that the small MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants from the small MS4. If the permittee has an existing program to maintain its MS4 infrastructure in a timely manner to reduce or eliminate the discharge of pollutants from the MS4, the permittee shall document the program in the SWMP.

2. The permittee shall optimize routine inspections, cleaning, and maintenance of catch basins so that the following conditions are met:
    i. No catch basin sump shall be more than 50 percent full for any catch basins serving catchments draining to impaired waters where the pollutant of concern is sedimentation/siltation. If the majority of the waters are impaired, the permittee shall prioritize cleaning efforts based on the cause of the impairment and the potential for the small MS4 to contribute to the impairment. The permittee shall document its prioritization in the SWMP.
    ii. Prioritize inspection and maintenance of catch basins located near construction activities (roadway construction, residential, commercial, or industrial development or redevelopment). Clean catch basins in such areas more frequently if inspection and maintenance activities indicate excessive sediment or debris loadings.
    iii. For all other catch basins, establish a schedule detailing the frequency of routine cleaning that will ensure that the catch basins will never be more than 50 percent full.
    iv. If a catch basin sump is more than 50 percent full during two consecutive routine inspections/cleaning events, the permittee shall document that finding, investigate the contributing drainage area for sources of excessive sediment loading, and, to the extent practicable, abate contributing sources. The permittee shall describe any actions taken in its annual report.
    v. For the purposes of this Section, an excessive sediment or debris loading is a catch basin sump more than 50 percent full. A catch basin sump is more than 50 percent full if the contents within the sump exceed one half the distance between the bottom interior of the catch basin to the invert of the deepest outlet of the catch basin.
    vi. The permittee shall document in the SWMP, and in annual reports its plan for optimizing catch basin cleaning, inspection plans, or its schedule for gathering information to develop the optimization plan. Documentation shall include metrics and other information used to reach the determination that the established plan for cleaning and maintenance is optimal for the MS4. The permittee shall keep a log of catch basins cleaned or inspected.
    vii. The permittee shall report in each annual report the total number of catch basins, number inspected, number cleaned, and the volume or mass of material removed from each catch basin draining to impaired waters and the total volume or mass of material removed from all catch basins.

3. The permittee shall establish and implement procedures for sweeping and/or cleaning streets, and permittee-owned parking lots. The procedures shall also include more frequent sweeping of targeted areas determined by the permittee on the basis of pollutant load reduction potential, inspections, pollutant loads, catch basin cleaning or inspection results, land use, impaired waters or other relevant factors as determined by the permittee. In each annual report, the permittee shall report the number of miles cleaned, and the volume or mass of material removed.

   For uncurbed, limited access highways, the permittee shall either meet the minimum frequencies above, or use the implemented inspection, documentation and targeted sweeping plan, required during the first year of the date of authorization of the 2016 Small MS4 General Permit, and submit any updates to the plan within its first annual report after the authorization date of coverage of this permit.

4. The permittee shall ensure proper storage of catch basin cleanings and street sweepings prior to disposal or reuse such that they do not discharge to receiving waters.

5. The permittee shall establish and implement inspection and maintenance frequencies and procedures for the storm drainage systems (including but not limited to storm sewers, pump station, siphons, outfalls, etc.), and for all stormwater treatment structures, such as water quality swales, retention/detention basins, infiltration structures, proprietary treatment devices or other similar structures. All permittee-owned stormwater treatment structures (excluding catch basins) shall be inspected annually at a minimum.

6. The permittee shall report in the annual report on the status of the inventory required by this section and any subsequent updates; the status of the O&M programs for the permittee-owned facilities and activities in Sections 2.4.7.1.a–d. of this section; and the maintenance activities associated with each.

7. The permittee shall keep a written record of all required activities including, but not limited to, maintenance activities, inspections, and training required by Section 2.4.7.1. The permittee shall maintain, consistent with Section 3.2.1, all records associated with maintenance and inspection activities required by Section 2.4.7.1.

2.4.7.2 Stormwater Pollution Prevention Plan (SWPPP)

The permittee shall develop and fully implement a SWPPP for each of the following conventional/non-conventional municipal operations, including municipal facilities such as maintenance garages, public works yards, transfer stations, and other waste handling municipal facilities where pollutants are exposed to stormwater. If municipal facilities are located on the same property, the permittee may develop one SWPPP for the entire property. The SWPPP is a separate and different document from the SWMP required in Section 1.11. A SWPPP does not need to be developed for a municipal facility if the permittee has either already developed a SWPPP or received a no exposure certification for the discharge under the Multi-Sector General Permit or the discharge is authorized under another NPDES permit.

a. No later than two (2) years from the date of authorization of the 2016 Small MS4 General Permit, the permittee was required to develop and implement a written SWPPP for the facilities described above. The SWPPP should be signed in accordance with the signatory requirements of Appendix B – Subsection 11.

b. The SWPPP shall contain the following elements:

i. Pollution Prevention Team
Identify the staff on the team, by name and title. If the position is unstaffed, the title of the position should be included and the SWPPP updated when the position is filled. The role of the team is to develop, implement, maintain, and revise, as necessary, the SWPPP for the municipal facility.

ii. Description of the municipal facility and identification of potential pollutant sources. The SWPPP shall include a map of this municipal facility and a description of the activities that occur at this municipal facility. The map shall show the location of the stormwater outfalls, receiving waters, and any structural controls. Identify all activities that occur at the facility and the potential pollutants associated with each activity including the location of any floor drains. These may be included as part of the inventory required by Section 2.4.7.1.

iii. Identification of stormwater controls
The permittee shall select, design, install, and implement the control measures detailed in section iv., below, to prevent or reduce the discharge of pollutants from the permittee owned municipal facility.

The selection, design, installation, and implementation of the control measures shall be in accordance with good engineering practices and manufacturer's specifications. The permittee shall also take all reasonable steps to control or address the quality of discharges from the municipal site that may not originate at the municipal facility.

If the discharge from the municipal facility is to an impaired water and the municipal facility has the potential to discharge the pollutant identified as causing the impairment, the permittee shall identify the control measures that will be used to address this pollutant at the municipal facility so that the discharge does not cause or contribute to a violation of a water quality-based standard.

iv. The SWPPP shall include the following management practices:

Minimize or Prevent Exposure: The permittee shall, to the extent practicable, either locate materials and activities inside, or protect them with storm-resistant coverings in order to prevent exposure to rain and runoff (although significant enlargement of impervious surface area is not recommended).

Materials do not need to be enclosed or covered if stormwater runoff from affected areas will not be discharged directly or indirectly to surface waters or to the MS4, or if discharges are authorized under another NPDES permit.

Good Housekeeping: The permittee shall keep clean all exposed areas that are potential sources of pollutants, using such measures as: sweeping at regular intervals; ensure that trash containers are closed when not in use; keeping storage areas well swept and free from leaking or damaged containers; and store leaking vehicles needing repair indoors or in a contained area to minimizing exposure.

Preventative Maintenance: The permittee shall regularly inspect, test, maintain, and repair all equipment and systems to avoid situations that may result in leaks, spills, and other releases of pollutants in stormwater to receiving waters. Inspections shall occur at a minimum once per quarter.

Spill Prevention and Response: The permittee shall minimize the potential for leaks, spills, and other releases that may be exposed to stormwater and develop plans for effective response to such spills, if or when they occur. At a minimum, the permittee shall have procedures that include:

- Preventive measures such as barriers between material storage and traffic areas, secondary containment provisions, and procedures for material storage and handling;
- Response procedures that include notification of appropriate facility personnel, emergency agencies, and regulatory agencies, and procedures for stopping, containing, and cleaning up leaks, spills and other releases. Measures for cleaning up hazardous material spills or leaks shall be consistent with applicable Resource Conservation and Recovery Act (RCRA) regulations at 40 C.F.R. Parts 264 and 265. Employees who may cause, detect, or respond to a spill or leak shall be trained in these procedures and have necessary spill response equipment available. If possible, one of these individuals should be a member of the Pollution Prevention Team; and
- Contact information for individuals and agencies that shall be notified in the event of a leak, spill, or other release. Where a leak, spill, or other release containing a hazardous substance or oil in an amount equal to or in excess of a reportable quantity established under 40 C.F.R. Parts 110, 117, or 302, occurs during a 24-hour period, the permittee shall notify the National Response Center (NRC) at (800) 424-8802 and/or (202) 267-2675, in accordance with the requirements of 40 C.F.R. Parts 110, 117, and 302 as soon as the permittee has knowledge of the discharge. The Commonwealth of Puerto Rico or local requirements may necessitate reporting spills or discharges to local emergency, public health or drinking water supply agencies, and owners of public drinking water supplies. Contact information shall be in locations that are readily accessible and available.

Erosion and Sediment Control: The permittee shall use structural and non-structural control measures at the facility to stabilize and contain runoff from exposed areas, and to minimize or eliminate onsite erosion and sedimentation. Efforts to achieve this may include the use of flow velocity dissipation devices at discharge locations and within outfall channels where necessary to reduce erosion.

Management of Runoff: The permittee shall manage stormwater runoff from the facility to prevent or reduce the discharge of pollutants. This may include management practices which divert runoff from areas that are potential sources of pollutants, contain runoff in such areas, or reuse, infiltrate or treat stormwater to reduce the discharge of pollutants.

Employee Training: The permittee shall regularly train employees who work in areas where materials or activities are exposed to stormwater, or who are responsible for implementing activities identified in the SWPPP (e.g., inspectors, maintenance personnel), including all members of the Pollution Prevention Team. Training shall cover both the specific components and scope of the SWPPP, and the control measures required under this Section, including spill response, good housekeeping, material management practices, any best management practice for operation and maintenance, etc. EPA recommends annual training.

The permittee shall document the following information for each training:

- The training date, title and duration;
- List of municipal attendees; and
- Subjects covered during training.

Maintenance of Control Measures: The permittee shall maintain all control measures, required by this permit, in an effective operating condition. The permittee shall keep documentation onsite that describes procedures and a regular schedule for preventative maintenance of all control measures and discussions of back-up practices in place should a runoff event occur while a control measure is off-line. Nonstructural control measures shall also be diligently maintained (e.g., spill response supplies available, personnel trained).

v. The permittee shall conduct the following inspections:

Site Inspections: Inspect all areas that are exposed to stormwater and all stormwater control measures. Inspections shall be conducted at least once each calendar quarter. More frequent inspections may be required if significant activities are exposed to stormwater. Inspections shall be performed when the facility is in operation. At least one of the quarterly inspections shall occur during a period when a stormwater discharge is occurring.

The permittee shall document the following information for each facility inspection:
• The inspection date and time;
• The name of the inspector;
• Weather information and a description of any discharge occurring at the time of the inspection;
• Identification of any previously unidentified discharges from the site;
• Any control measures needing maintenance or repair;
• Any failed control measures that need replacement;
• Any SWPPP changes required as a result of the inspection.

vi. If during the inspections, or at any other time, the permittee identifies control measures that need repair or are not operating effectively, the permittee shall repair or replace them before the next anticipated storm event, if possible, or as soon as practicable following that storm event. In the interim, the permittee shall have back-up measures in place.

c. The permittee shall report the findings from the Site Inspections in the annual report.

d. The permittee must keep a written record of all required activities, including, but not limited to, maintenance, inspections, and training required by Section 2.4.7.2. The permittee shall maintain all records associated with the development and implementation of the SWPPP required by this section consistent with the requirements of Section 3.2.1.

## 3.0 Program Evaluation, Recordkeeping, and Reporting

### 3.1 Program Evaluation

3.1.1 The permittee shall annually self-evaluate its compliance with the terms and conditions of this permit. The permittee shall maintain the annual evaluation documentation as part of the SWMP records.

3.1.2 The permittee shall evaluate the appropriateness of the selected BMPs in achieving the objectives of each control measure and the defined measurable goals. The permittee may change BMPs in accordance with the following provisions:

- Changes adding (but not subtracting or replacing) components or controls may be made at any time.
- Changes replacing an ineffective or infeasible BMP, specifically identified in the SWMP, with an alternative BMP may be made if the proposed changes meet the criteria of Section 3.1.3 and/or 3.1.4.

3.1.3 BMP modification documentation shall include the following information and all documentation shall be kept in the SWMP:

- An analysis of why the BMP is ineffective or infeasible;
- Expectations on the effectiveness of the replacement BMP; and
- An analysis of why the replacement BMP is expected to achieve the defined goals of the BMP to be replaced.

The permittee shall indicate BMP modifications along with a brief explanation of the modification in each Annual Report.

3.1.4 EPA or the PRDNER may require the permittee to add, modify, repair, replace or change BMPs or other measures described in the annual reports, as needed:

- To address impacts to receiving water quality caused or contributed to by discharges from the MS4;
- To satisfy conditions of this permit;
- To include more stringent requirements necessary to comply with new Commonwealth of Puerto Rico or federal legal requirements; or
- To include such other conditions deemed necessary to comply with the goals and requirements of the CWA.

Any changes requested by EPA or the PRDNER will be in writing and will set forth the schedule for the permittee to develop the changes, and will offer the permittee the opportunity to propose alternative program changes to meet the objective of the requested modification.

## 3.2 Recordkeeping

3.2.1 The permittee shall keep all records required by this permit for a period of at least five (5) years after the expiration of this permit. Records include information used in the development of any written program required by this permit, any monitoring results, copies of reports, records of screening, follow-up and elimination of illicit discharges; maintenance records; inspection records; and data used in the development of the notice of intent, SWMP, SWPPP, and annual reports. This list provides examples of records that should be maintained, but is not all inclusive.

3.2.2 Records other than those required to be included in the annual report, Section 3.4, shall be submitted only when requested by the EPA or the PRDNER.

3.2.3 The permittee shall make the records relating to this permit, including the written SWMP, available to the public. The public may view the records during normal business hours. The

permittee may charge a reasonable fee for copying requests. The permittee is encouraged to satisfy this requirement by posting records online.

### 3.3 Outfall Monitoring

3.3.1 The permittee shall monitor and sample its outfalls, at a minimum, through sampling and testing at the frequency and locations required in connection with the IDDE screening under Sections 2.4.4.8.d-g. and 2.4.4.9.

i. IDDE screening shall include collection of grab samples and analysis of said samples for Enterococci and Fecal Coliform (for freshwater receiving waters) or Enterococcus and Fecal Coliform (for saline or brackish receiving waters). Bacteria, ammonia, surfactants, boron, and phosphorus analyses shall be conducted using the analytical methods found in 40 C.F.R. Part 136, or alternative methods approved by EPA in accordance with the procedures in 40 C.F.R. Part 136. Other IDDE screening parameters shall be considered field screening, and are not subject to 40 C.F.R. Part 136 requirements, but must use methods and analyses that will yield results representative of the discharge.

ii. If the discharge is directly into an impaired water, or if the discharge is subject to a waste load allocation in an approved TMDL, as indicated in Appendix F, grab samples shall be collected concurrently with the IDDE investigation required by Section 2.4.4.8.e.b, and analyzed for the pollutants identified as the cause of the impairment, which are subject to the 40 C.F.R. Part 136 requirements. The required pollutant analyses in connection with causes of impairment are provided in Appendix E.

iii. The monitoring program may also include additional outfall and interconnection monitoring as determined by the permittee in connection with the assessment of SWMP effectiveness pursuant to Section 3.1; evaluation of discharges to impaired waters pursuant to Section 2.2; assessment of BMP effectiveness pursuant to Section 2.2; or otherwise.

3.3.2 The permittee shall document all monitoring results each year in the annual report. The report shall include the date, outfall or interconnection identifier, location, weather conditions at time of sampling, precipitation in the previous 48 hours, field screening parameter results, and results of all analyses. The annual report shall include all of this information along with the data for the current reporting period and for the entire permit period.

3.3.3 In the annual report, the permittee shall also include results from any other stormwater or receiving water quality monitoring or studies conducted during the reporting period. If such monitoring or studies were conducted on behalf of the permittee, or if monitoring or studies

conducted by other entities were reported to the permittee, then a brief description of the type of information gathered or received shall be included in the annual report(s) covering the time period(s) the information was received.

## 3.4 Reporting

3.4.1 Electronic Reporting Requirement

You must submit all NOIs, and Annual Reports and other reporting information electronically, unless the EPA grants you a waiver based on one of the following conditions:

- If your headquarters is physically located in a geographic area (i.e., zip code or census tract) that is identified as under-served for broadband Internet access in the most recent report from the Federal Communications Commission; or
- If you have limitations regarding available computer access or computer capability.

Waivers are only granted once for a single information submittal, e.g., an initial waiver for an NOI does not apply for the entire term of the permit for other forms. If you need to submit information on paper after your first waiver, you must apply for a new waiver. The EPA Regional Office may extend a wavier on a case-by-case basis.
If you wish to obtain a waiver from submitting a report electronically, you must submit a request to the EPA Office address, found in Part 3.4.4. In that request you must document which exemption you meet, provide evidence supporting any claims, and a copy of your completed paper form. A waiver may only be considered granted once you receive written confirmation from EPA or its authorized representative.

3.4.2 The permittee shall submit an annual report. The reporting period will be a one year period commencing on the authorization date of coverage of this permit, and subsequent anniversaries thereof, except that the first annual report under this permit shall also cover the period from July 1, [of the last annual report] to the authorization date of coverage of this permit. The annual report is due thirty days from the close of each reporting period.

The annual year period will be constituted as follow:

July 1, year of permit issuance (YPI) thru June 30, YPI + 1 year;
July 1, YPI + 1 year thru June 30, YPI + 2 year;
July 1, YPI + 2 year thru June 30, YPI + 3 year;
July 1, YPI + 3 year thru June 30, YPI + 4 year;
July 1, YPI + 4 year thru June 30, YPI + 5 year;

3.4.3 The annual reports shall contain the following information:

3.4.3.1 A self-assessment review of compliance with the permit terms and conditions.

3.4.3.2 An assessment of the appropriateness of the selected BMPs.

3.4.3.3 The status of any plans or activities required by Section 2.1 and/or Section 2.2, including:

- Identification of all discharges determined to be causing or contributing to an exceedance of water quality standards, and a description of the response, including all items required by Section 2.1.1.c; and
- For discharges subject to TMDLs, identification of specific BMPs used to address the pollutant identified as the cause of impairment and assessment of the BMPs effectiveness at controlling the pollutant (Section 2.2.1).

3.4.3.4 An assessment of the progress towards achieving the measurable goals and objectives of each control measure in Section 2.4 including:

- Evaluation of the public education program including a description of the targeted messages for each audience; method of distribution and dates of distribution; methods used to evaluate the program; and any changes to the program.
- Description of the activities used to promote public participation including documentation of compliance with the Commonwealth of Puerto Rico public notice regulations.
- Description of the activities related to the implementation of the IDDE program including: status of the map; status and results of the illicit discharge potential ranking and assessment; identification of problem catchments; status of all protocols described in Sections 2.4.4 (program responsibilities and systematic procedure); number and identifier of catchments evaluated; number and identifier of outfalls screened; number of illicit discharges located; number of illicit discharges removed; gallons of flow removed; identification of tracking indicators and measures of progress based on those indicators; and employee training.
- Evaluation of the construction runoff management, including the number of project plans reviewed; number of inspections; and number of enforcement actions.
- Evaluation of stormwater management for new development and redevelopment, including status of ordinance development and review; status of the street design assessment; and information of the impervious area reductions.
- Status of the O&M Programs required by Section 2.4.7.1.
- Status of SWPPP required by Section 2.4.7.2, including inspection results.

3.4.3.5 All outfall screening and monitoring data collected, by or on behalf of the permittee, during the reporting period and cumulative for the permit term, including, but not limited to, all data collected pursuant to Sections 2.4.4 and 3.3. The permittee shall also provide a description of any additional monitoring data received by the permittee during the reporting period.

3.4.3.6 Description of activities for the next reporting cycle.

3.4.3.7 Description of any changes to identified BMPs or measurable goals.

3.4.3.8 Description of activities undertaken by any entity contracted for achieving any measurable goal or implementing any control measure.

### 3.4.4 Submitting Information to EPA

3.4.4.1 Submitting Forms via NeT-MS4. You must submit all required information via EPA's electronic NPDES eReporting tool (NeT), unless the permit states otherwise or unless you have been granted a waiver per Section 1.7.2. You can both prepare and submit required information in NeT-MS4 using specific forms, also found in the permit's appendices. To access NeT-MS4, go to https://cdx.epa.gov.

Information you must submit to EPA via NeT-MS4:

- Notice of Intent (NOI) (Part 1.7.2); and
- Annual Report (AR) (Part 3.4.2)

If the EPA grants you a waiver from electronic reporting, you must use the required NOI form found in Appendix F. These forms must be submitted to EPA at the following address:

**United State Environmental Protection Agency**
**Caribbean Environmental Protection Division**
**Multimedia Permits and Compliance Branch**
**City View Plaza II, Suite 7000**
**48 Road 165 Km. 1.2**
**Guaynabo, Puerto Rico 00968-8069**

## 4.0 Non-Conventional MS4s - Commonwealth of Puerto Rico and Federal Facilities

A Non-Conventional MS4 is a conveyance or system of conveyances that collects stormwater that is owned and operated by the Commonwealth of Puerto Rico and/or the federal government and that is located within an urbanized area. These facilities operated by the Commonwealth of Puerto Rico or the federal government include universities, prisons, hospitals, military bases (e.g., the Puerto Rico Army National Guard barracks, parks and office building complexes), flood control pumps, and transportation authority structures.

### 4.1 Requirements for Non-Conventional MS4s

All requirements and conditions of Sections 1 – 3 of this permit apply to all Non-Conventional MS4s, except as specifically provided below.

4.1.1 **Public education:** For the purpose of this permit, the audiences for a Non-Conventional MS4 include the employees, clients and customers (including students at the educational Non-Conventional MS4s (i.e., university)) or visitors to the property, and any contractors working at the facility where the Non-Conventional MS4 is located. The permittee may use some of the educational topics included in Section 2.4.2.1.c., as appropriate, or may focus on topics specific to the MS4. The permittee shall document the educational topics for each target audience in the SWMP and annual reports.

4.1.2 **Ordinances and regulatory mechanisms:** Some Non-Conventional MS4s may not have authority to enact an ordinance, by-law, or other regulatory mechanisms. MS4s without the authority to enact an ordinance shall ensure that written policies or procedures are in place to address the requirements of Section 2.4.4.8.a., Section 2.4.5.3.a., Section 2.4.6.1 and Section 2.4.6.3. They may rely on EPA, the PRDNER and/or other Commonwealth of Puerto Rico/Federal offices for enforcement assistance.

4.1.3 **Assessment of Regulations:** Non-Conventional MS4s do not need to meet the requirements of Section 2.4.6.5 to perform compliance inspections. The focus of Non-Conventional MS4s is maintenance of its stormwater controls. The permittee of Non-Conventional MS4s should evaluate opportunities to include green infrastructure practices in new development and redevelopment at their facilities. The permittee of Non-Conventional MS4s should evaluate opportunities to reduce the amount of impervious cover due to parking areas and walkways, and shall report on these efforts in each annual report. The permittee shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the permittee of the non-conventional MS4 or his/her agents.

4.1.4 **Water Quality Based Requirements for New Dischargers:**
New Non-Conventional MS4 facilities are subject to additional water quality-based requirements if they fall within the definition of "new dischargers" under 40 C.F.R. § 122.2: "A new discharger means any building, structure, facility or installation: (a) from which there is or may be a 'discharge of pollutants'; (b) that did not commence the 'discharge of pollutants' at a particular 'site' prior to August 13, 1979; (c) which is not a 'new source'; and (d) which never received a finally effective NPDES permit for discharges at that 'site.'"

When applying the definition of "new discharger" to Non-Conventional MS4s authorized under this permit, the term "site," for purposes here, means the land area where the MS4 is physically located as of the authorization date of coverage of this permit; and the same or adjacent land if any new structure, facility or installation that is served by the MS4 is created thereafter the effective date of this permit. Any new Non-Conventional MS4 facility, located on land that is not adjacent with an existing MS4 facility, is subject to the following requirements, below.
4.1.4.1 <u>New Discharger to Impaired Waters without an Approved TMDL</u>
New dischargers to impaired waters without an approved TMDL are not eligible for coverage under this permit. Such discharger shall apply for an individual permit.

4.1.4.2 New Discharger to Impaired Waters with an Approved TMDL
New dischargers to impaired waters with an approved TMDL are not eligible for coverage under this permit unless the discharger submits to EPA, with its NOI, documentation that proves either:

a. There are sufficient remaining pollutant load allocations in all TMDLs applicable to the waterbody to allow for the new discharge and the existing discharges to meet water quality standards only if subject to compliance schedules designed to bring the waterbody into attainment with water quality standards; or
b. To the extent consistent with law and EPA policy, the permittee establishes an offset for the discharge of the pollutant identified in the TMDL, and receives an affirmative determination from EPA that the new discharger meets the requirements of this section.

The permittee shall retain any relevant documentation with the SWMP.

## 5.0 Non-Conventional MS4s - Commonwealth of Puerto Rico Department of Transportation and Public Works

Non-Conventional transportation department MS4 is a conveyance or system of conveyances that collect stormwater from roadways and structures that are owned and/or operated by the Commonwealth of Puerto Rico Department of Transportation and Public Works, and located within an urbanized area. The transportation department in the Commonwealth of Puerto Rico is the Department of Transportation and Public Works (DTOP, for its acronym in Spanish), and is responsible for the operation and maintenance of roadways owned by the Commonwealth of Puerto Rico. All requirements of Sections 1 – 3 of this permit apply to this type of MS4, with the following exceptions, listed below.

5.1 **Public education:** For the purpose of this permit, the audiences for a transportation department education program include the general public (users of the roadways), employees, and any contractors working at the location. The permittee may use some of the educational topics included in Section 2.4.2.1.c. as appropriate, or may focus on topics specific to the agency. The permittee shall document the educational topics for each target audience in annual report.

5.2 **Ordinances and Regulatory Mechanisms:** The Non-Conventional transportation department MS4 may not have authority to enact an ordinance, by-law or other regulatory mechanisms. DTOP will require that all eligible construction sites, where stormwater discharges into a surface waterbody and storm sewer, apply for and obtain an EPA NPDES CGP for all construction projects equal to or greater than one (1) acre or are part of a common plan that exceeds an acre. DTOP shall ensure that written agency policies or procedures are in place to address the requirements of Section 2.4.4.6.a., Section 2.4.5.3.a. and Section 2.4.6.3. These agencies may rely on EPA or the PRDNER for enforcement assistance.

5.3 **Assessment of Regulations:** The requirements of Section 2.4.6.1 do not apply. The agency should evaluate opportunities to include green infrastructure practices in new development and redevelopment at the facility. DTOP should evaluate opportunities to reduce

the amount of impervious cover due to parking areas and walkways, and shall report on these efforts in each annual report. DTOP shall also ensure adequate long-term operation and maintenance of stormwater management practices installed by the agency or its agents.

5.4 **System Mapping:** Since the authority of DTOP is throughout the entire Commonwealth of Puerto Rico, the time requirement in Section 2.4.4.6 is modified. DTOP shall develop a revised and more detailed map than was required by the 2016 Small MS4 General Permit. This revised map of the MS4 shall be completed within ten (10) years from the authorization date of coverage of this permit. This permit does not provide additional time for completion of the mapping that was required by the 2016 Small MS4 General Permit.

5.5 **Water Quality Based Requirements for New Dischargers:**
New Non-Conventional transportation authority MS4 structures (i.e., roadways, vehicle parking/repair facilities, equipment facilities, material storage facilities, among others) are subject to additional water quality-based requirements if they fall within the definition of "new dischargers" under 40 C.F.R. § 122.2: "A new discharger means any building, structure, facility or installation: (a) from which there is or may be a 'discharge of pollutants'; (b) that did not commence the 'discharge of pollutants' at a particular 'site' prior to August 13, 1979; (c) which is not a 'new source'; and (d) which never received a finally effective NPDES permit for discharges at that 'site.'"

When applying the definition of "new discharger" in 40 C.F.R. § 122.2, to a transportation agency MS4 authorized under this permit, the term "site," for purposes here, means the land area where the MS4 is physically located as of the authorization date of coverage of this permit; and the same or adjacent land if any new structure, facility or installation that is served by the MS4 is created thereafter the date of authorization of this permit. Any new transportation MS4 facility that is located on land that is not adjacent with an existing MS4 facility is subject to the following requirements, below.

5.5.1 <u>New Discharger to Impaired Waters without an Approved TMDL</u>
New dischargers to impaired waters without an approved TMDL are not eligible for coverage under this permit. The permittee shall apply for an individual permit.

5.5.2 <u>New Discharger to Impaired Waters with an Approved TMDL</u>
New dischargers from new Non-Conventional MS4 structures (i.e., roadways, vehicle parking/repair facilities, equipment facilities, material storage facilities, among others) to impaired waters with an approved TMDL are not eligible for coverage under this permit unless the permittee submits to EPA documentation before the authorization date of coverage of this permit that proves either:

a. There are sufficient remaining pollutant load allocations in all TMDLs applicable to the waterbody to allow for the new discharge and the existing discharges to meet compliance water quality standards only if there are compliance schedules designed to bring the waterbody into attainment with water quality standards; or
b. To the extent consistent with law and EPA policy, DTOP establishes an offset for the discharge of the pollutant identified in the TMDL, and receives an affirmative determination from EPA that the new discharger meets the requirements of this section.

The permittee shall retain any relevant documentation with the SWMP.

## 6.0 Non-Conventional MS4 - Commonwealth of Puerto Rico Department of Natural and Environmental Resources

These Non-Conventional MS4 is a conveyance or system of conveyances that collects stormwater from flood districts and structures (i.e., pump stations), which are owned and/or operated by the PRDNER and located within an urbanized area. The PRDNER owns, operates and maintains stormwater flood control pump stations in Puerto Rico. All requirements and conditions of this permit apply with the following exceptions, listed below. The exceptions are applicable only if PRDNER owns and operates pump stations, and not any of the storm sewer tributaries to the pump stations:

6.1 **Public education:** For the purpose of this permit, the audiences for the stormwater flood control structure education program include the general public (located within the potential flood area), employees, and any contractors working at the location. The permittee may use some of the educational topics included in Section 2.4.2.1.c. as appropriate, or may focus on topics specific to the PRDNER. PRDNER shall document the educational topics for each target audience in annual report. Additionally, PRDNER should also seek to partner with the municipalities where the flood control pump stations are located to enhance the education outreach of the municipality and the PRDNER.

6.2 **Ordinances and regulatory mechanisms:** The PRDNER may not have authority to enact an ordinance, by-law or other regulatory mechanisms for the Non-Conventional MS4. This hinders PRDNER authority to enforce actions against the discharges into the pump stations. Therefore, RDNER shall instead enter into interagency or interlocal agreements for monitoring pollutant sources and mitigate within one (1) year of the authorization date of coverage of this permit.

6.3 **Assessment of Regulations:** The Non-Conventional MS4 does not need to meet the requirements of Section 2.4.5, Section 2.4.6 and 2.4.7. PRDNER shall instead develop and implement an operation and maintenance program of its infrastructure. The permittee shall establish within one (1) year of the authorization date of coverage of this permit a written program detailing the activities and procedures the permittee will implement so the Non-Conventional MS4 infrastructure is maintained in a timely manner to reduce the discharge of pollutants. The MS4s do need to meet portions of Section 2.4.4 unless PRDNER owns/operates collection systems in which they need to comply with all of Sections 2.4.5, 2.4.6 and 2.4.7.

6.4 **Water Quality Based Requirements for New Dischargers:**
New Non-Conventional MS4 flood control structures (i.e., pump stations) are subject to additional water quality-based requirements if they fall within the definition of "new dischargers" under 40 C.F.R. § 122.2: "A new discharger means any building, structure, facility or installation: (a) from which there is or may be a 'discharge of pollutants'; (b) that did not commence the 'discharge of pollutants' at a particular 'site' prior to August 13, 1979; (c) which

is not a 'new source'; and (d) which never received a finally effective NPDES permit for discharges at that 'site.'"

For purposes of this permit, in the definition of "new discharger" in 40 C.F.R. § 122.2, as it applies to a flood control MS4, the term "site" means the land area where the MS4 is located as of the authorization under this permit; and the same or contiguous land if any new structure, facility or installation that is served by the Non-Conventional MS4 is created thereafter. Any new Non-Conventional MS4 flood control structures that are located on land that is not contiguous with an existing MS4 facility is subject to the following requirements.

### 6.4.1 New Discharger to Impaired Waters without an Approved TMDL

New dischargers to impaired waters without an approved TMDL are not eligible for coverage under this permit. Such discharger shall apply for an individual permit.

### 6.4.2 New Discharger to Impaired Waters with an Approved TMDL

New dischargers from new Non-Conventional MS4 flood control structures (i.e., pump stations) to impaired waters with an approved TMDL are not eligible for coverage under this permit unless the permittee submits to EPA documentation before the date of authorization to discharge under this permit that either:

a. There are sufficient remaining pollutant load allocations in all TMDLs applicable to the waterbody to allow for the new discharge and the existing discharges to comply with water quality standards if subject to compliance schedules designed to bring the waterbody into attainment with water quality standards; or
b. To the extent consistent with law and EPA policy, the permittee establishes an offset for the discharge of the pollutant identified in the TMDL, and receives an affirmative determination from EPA that the new discharger meets the requirements of this section.

The permittee shall retain any relevant documentation with the SWMP.

## 7.0 Additional Program Certification Requirement

### 7.1 CWA Section 401 I

Pursuant to 40 C.F.R. § 124.53, provides, in part, that in accordance with CWA Section 401(a)(1), EPA may not issue a permit until a certification is granted or waived by the State in which the discharge originates or will originate. EPA will be requesting certification from PRDNER.

### 7.2 Reopener Clause for Federal Program Consistency Requirements

This general permit may be modified and reissued based on those new conditions required by Federal programs, such as the Endangered Species Act under the National Marine Fishery Services.