

ATTACHMENT I

**RESPONSE TO COMMENTS ON
DRAFT NPDES PERMIT FOR
Small Municipal Separate Storm Sewer Systems**

On November 8, 2005, the United States Environmental Protection Agency (EPA) issued a draft National Pollutant Discharge Elimination System (NPDES) permit for applicable coverage in the Commonwealth of Puerto Rico. Public notice of the draft permit was provided in the San Juan Star on December 10, 2005. The public comment period for the draft NPDES permit expired on February 6, 2006.

According to 40 Code of Federal Regulations (CFR) §124.17, at the time that any final permit decision is issued under §124.15, EPA shall issue a response to comments. This response shall (1) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and (2) briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

Comments on behalf of the Municipality of Caguas were received in a letter dated February 2, 2006 from Mayor William Miranda from the following address:

**Commonwealth of Puerto Rico
Autonomous Municipality of Caguas
P. O. Box 907
Caguas, Puerto Rico 00726-0907**

All comments received have been reviewed and considered in this final permit decision. A discussion and response to the comments received is as follows:

Comment 1:

Although the Municipality of Caguas is classified as an autonomous municipality under the Commonwealth of Puerto Rico, many regulations and/or authorities related with the minimum control measures requested by EPA are responsibilities of regulatory agencies such as the Puerto Rico Environmental Quality Board, Natural Resources Department, PRASA, ARPE, DTOP and others. Are those agencies aware of their responsibility to back up the designated MS4s and give support whenever the cities do not have jurisdiction?

As an example of this issue, CALTRANS (California Department of Transportation) submitted an application for the Permit. The storm water regulations defined discharges from MS4s located in urbanized areas as point sources to be permitted by an NPDES storm water permit. The definition included MS4s associated with roads and highways. This resulted in CALTRANS being required to obtain NPDES storm water permits for its facilities located in urbanized areas of the State. Through our jurisdiction, we have several state roads and highways that discharge

pollutants into our local waters, we have no way or regulating these discharges because we are not the owners of these systems. What will be done in these cases? Will these agencies that own or operate MS4s be required to submit an application for a Permit?

Response 1:

The final rule, promulgated in December 9, 1999, extended the NPDES program to include discharges from the following: small MS4s within urbanized areas (with the exception of systems waived from the requirements by the NPDES permitting authority); other small MS4s meeting designation criteria to be established by the permitting authority; and any remaining MS4 that contributes substantially to the storm water pollutant loadings of a physically interconnected MS4 already subject to regulation under the NPDES program. Small MS4s include urban storm sewer systems owned by Tribes, States, political subdivisions of States (including “municipios”), as well as the United States, and other systems located within an urbanized area that fall within the definition of an MS4. These include, for example, State departments of transportation (DOTs), public universities, penitentiaries, military installations and similar institutions with separate storm sewers drainage area.

Today’s final general permit requires all regulated small MS4s, including State DOTs, to seek coverage under the general permit and to develop and implement a storm water management program. Program components include, at a minimum, 6 minimum measures to address: public education and outreach; public involvement; illicit discharge detection and elimination; construction site runoff control; post-construction storm water management in new development and redevelopment; and pollution prevention and good housekeeping of municipal operations. A regulated small MS4 is required to submit to the NPDES permitting authority, either in its notice of intent (NOI) or individual permit application, the BMPs to be implemented and the measurable goals for each of the minimum control measures listed above.

Comment 2:

In relation to the Post-Construction Runoff Control Measures requested by EPA, the actual Construction Codes in Puerto Rico have to be upgraded or updated to consider the compliance of this new regulation. It is possible to consider the revision of the Construction Codes of Puerto Rico before requesting the MS4s compliance with this task?

Response 2:

EPA believes this concern should be raised to the proper State agency by the small MS4 and other regulated public entities. EPA can not require to update the Construction Codes in Puerto Rico. However, today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

Comment 3:

The municipality of Caguas in the 2000 Census had a population of 140,502 inhabitants. Does the definition of Small MS4s still apply or is the Municipality of Caguas by definition considered a medium MS4s?

Response 3:

In December 8, 1999, EPA promulgated the Storm Water Final Rule Phase 2. In this notice EPA defined municipal separate storm sewer system. The existing municipal permit application regulations define “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) as determined by the latest Decennial Census (see §§ 122.26(b)(4) and 122.26(b)(7)). In this final rule, the regulations were revised to define all medium and large MS4s as those meeting the above population thresholds according to the 1990 Decennial Census. EPA has added those incorporated places and counties whose 1990 population caused them to be defined as a “medium” or “large” MS4. All of these MS4s have applied for permit coverage so the effect of this change to the appendices is simply to make them more accurate. They will not need to be revised again because this rule “freezes” the definition of “medium” and “large” MS4s at those that qualified based on the 1990 census. The decision was based on the fact that the deadlines from the existing regulations have lapsed, and because the permitting authority can always require more from operators of MS4s serving “newly over 100,000” populations. All MS4s located in Phase 1 cities or counties are defined as Phase 1 medium or large MS4s.

However, EPA understands that the definition for “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) under Phase 1 is not applicable to the governmental boundary structure in the Commonwealth of Puerto Rico. The Phase 2 final rule designates all small MS4s located in an urbanized area are “regulated” small MS4s provided they were not previously designated into the existing storm water program. A definition of small MS4 is provided in Response number one. EPA recognizes that all regulated MS4s in Puerto Rico are classified under the Phase 2 Storm Water Program. Therefore, the Municipality of Caguas has been designated as a small MS4 based on the Phase 2 final rule.

Comment 4:

The Permit states in the Fact Sheet and Supplemental Information Part I.f that “This general permit implements the requirements of the Phase 2 program for small municipal separate storm water sewer systems in urbanized areas”. There are some areas in our municipality that are rural areas that do not have storm water systems or sanitary sewer systems, but by the population density definition in the Census it is considered an urbanized area (hereafter referred to as “UA”). What can be done in these cases where there is no system? Also, the map from the 2000 Census shows spots outside and away from urban areas that are classified as UA but are in rural areas. How will this affect our mapping and Permit Coverage, should we include only “spots” defined as of UA as part of the Permit or should we include also the areas located between these spots and the urban areas?

Response 4:

EPA adopted the definition of “urbanized area” from the Bureau of the Census (55 FR 42592). The term “urbanized area” comprises a place and the adjacent densely settled surrounding territory that together have a minimum population of 50, 000 people. The “densely settled surrounding territory” adjacent to the place consists of:

1. Territory made up of one or more contiguous census blocks having a population density of at least 1,000 people per square mile that it is:
 - a. Contiguous with and directly connected by road to other qualifying territory, or
 - b. Noncontiguous with other qualifying territory, and:
 - (1) Within 1.5 road miles of the main body of the urbanized area and connected to it by one or more nonqualifying census blocks that [a] are adjacent to the connecting road and [b] together with the outlying qualifying territory have a total population density of at least 500 people per square mile, or
 - (2) Separated by water or other undevelopable territory from the main body of the urbanized area, but within 5 road miles of the main body of the urbanized area, as long as the 5 miles include no more than 1 ½ miles of otherwise nonqualifying developable territory.
2. A place containing territory qualifying on the basis of criterion 1 [above] will be included in the urbanized area in its entirety (or partially, if the place is an extended city) if that qualifying territory includes at least 50 percent of the population of the place. If the place does not contain any territory qualifying on the basis of the above criterion, or if that qualifying territory includes less than 50 percent of the place’s population, the place is excluded in its entirety.
3. Other territory with a population density of less than 1,000 persons per square mile, provided that it:
 - a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for the urbanized area when the surrounding territory qualifies on the basis of population density, or
 - b. Closes an indentation in the boundary of the territory otherwise qualifying for the urbanized area when the contiguous territory qualifies on the basis of population density, provided that the indentation is no more than 1 mile across the open end, has a depth at least two times greater than the distance across the open end, and encompasses no more than 5 square miles.

In January 9, 1998, EPA established in the proposed rule for the Commonwealth of Puerto Rico, to regulate the entire municipio where the total population is equal to or greater than 100,000. Those municipios include Bayamon, Caguas, Carolina, Mayagüez, Ponce, and San Juan. For the other municipios that are located within an urbanized area and have populations of less than

100,000, only the pueblo will be regulated. This designation will provide the coverage of geographical gaps in NPDES storm water program's regulatory scheme, as mentioned above.

Comment 5:

If one or more of our outfalls does not discharge directly into a 303(d) listed impaired water body, is the Municipality's responsibility only to require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP) and is monitoring by samples and measurements only required for discharges to a 303(d) listed water body?

Response 5:

MEP is a standard that establishes the level of pollutant reductions that MS4 operators must achieve through implementation of a storm water management program. The pollutant reductions that represent MEP may be different for each municipality, given the unique storm water concerns that may exist and the differing possible remedies. EPA envisions that permittees will determine what the MEP is on a location-by-location basis and consider such factors as conditions of receiving waters, specific local concerns, and other aspects of a comprehensive watershed plan. Therefore, each permittee would determine the specific details in each of the six minimum control measures that represent MEP through an evaluative process. In this process, permittees and permit writers would evaluate the proposed storm water management controls to determine whether reduction of pollutants to the MEP could be achieved with the identified BMPs. Beside the impaired waterbodies, MEP would also be applicable to nonimpaired waterbodies.

Comment 6:

Knowing of the lack of information available to the Municipality of Caguas to have all the needed and up to date information about the 303(d) listed water bodies and TMDL values for the Rio Grande de Loiza Watershed, we cannot determine whether a storm water discharge from any part of our MS4 significantly contributes directly or indirectly to a 303(d) listed water body. At this moment, we are not in the position to determine what will be our compliance, because data is not available for us to use a guide.

Response 6:

EPA understand the concern of the Municipality of Caguas regarding access to information on TMDL for Puerto Rico. However, this must not impair the Municipality in the compliance with the requirements of today's general permit. Because so many diverse factors can dictate the specifics of a storm water management program, you should determine appropriate BMPs to satisfy each of the minimum control measures through an evaluative process. The definition of "MEP" should adapt continually to both current conditions and BMP effectiveness, but ultimately, successive iterations of the mix of BMPs and measurable goals should be made to achieve the objective of meeting water quality standards. If, after implementing the minimum control measures, there is still water quality impairment associated with discharges from the

MS4, you will need to expand or better tailor your BMPs. NPDES permitting authorities will review the identified BMPs and measurable goals and determine if they are likely to reduce pollutants to the MEP, protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act. If the permitting authority does not think that you are reducing pollutants to the MEP, they can request that you revise your mix of BMPs and measurable goals.

The Puerto Rico Environmental Quality Board (PREQB) has performed a thorough job in the development and approval of TMDLs in several segments of various watersheds in Puerto Rico. They are continuously working to have TMDLs developed for those impaired waterbodies. You may find the approved TMDLs and their watersheds at our website at www.epa.gov/owow/tmdl. You may also would like to consider contacting the PREQB at (787) 767-8181 for further information regarding TMDLs.

Comment 7:

What is the difference between an individual permit and a general permit and what are the considerations the EPA evaluates to determine which applies? Which is more restrictive, individual or general?

Response 7:

EPA wants to emphasize that, except for the procedural differences set out at 40 CFR Part 122.28 in the NPDES regulations, general permits are analogous to individual permits in every respect. General permits are still subject to the same reporting and monitoring requirements, limitation, enforcement provisions, penalties, and other substantive requirements as individual permits. General permits should be viewed as an administrative tool enabling the issuance of one permit to authorize a group of dischargers.

The Court of Appeals, in *NRDC v Train*, 396 F. Supp. 1393 (D.D.C. 1975) *aff'd*, *NRDC v Costle*, 568 F.2d 1369 (D.C.Cir. 1977), encouraged EPA to use its interpretation authority to mitigate burdens in establishing a practical regulatory scheme. Section 402 provides the Agency with flexibility in determining the appropriate scope and form of an NPDES permit. As a result, the Court suggested using area or general permits.

Comment 8:

When the Municipality of Caguas submitted the NOI on March 10, 2003, we did not receive a confirmation receipt nor a letter of completeness from EPA. Does this mean that our NOI has not been yet evaluated? How does this affect our compliance goal?

Response 8:

EPA records show that an acknowledgment letter, dated July 10, 2003, was addressed to the Municipality of Caguas. The letter also advised that the letter does not constitute permit issuance.

The application required the municipality and other governmental entities to seek coverage under a storm water permit by providing information and commence working on the development of a storm water management plan that will enable small MS4s to reduce pollutants to a maximum extent possible. In addition, a copy of the letter was faxed to the Municipality of Caguas on September 13, 2006.

Comment 9:

We know from the 1998 USGS Water Quality Study done in our watershed, that one of our principal pollutants is fecal coliforms. We have established on record that the vast majority of illicit discharges are from sanitary sewer overflows that discharge into our MS4, illegal connections from sanitary line to storm water lines and faulty or broken sanitary sewer lines. PRASA is the owner of these sanitary sewer systems statewide. The Municipality of Caguas wants to establish that we have no jurisdiction over this system and have no control over corrections, repairs and replacements of sanitary sewer lines or systems. Will this fact be taken into consideration when responsibility for this Permit is established and what are the requirements, if any, that EPA will make to PRASA to make the required corrections and maintenance of the sanitary sewer system? Will this Permit allow us to create a mechanism to expedite fines to PRASA for affecting our MS4 discharge?

Response 9:

EPA recognizes that the operators of some small MS4s might not have the authority under State law to implement one or more of the measures using, for example, an ordinance or other regulatory mechanism. To address these situations, each minimum measure in § 122.34(b) that would require the small MS4 operator to develop an ordinance or other regulatory mechanism states that the operator is only required to implement that requirement to “the extent allowable under State, Tribal or local law.” See § 122.34(b)(3)(ii) (illicit discharge elimination), § 122.34(b)(4)(ii) (construction runoff control) and § 122.34(b)(5)(ii) (post-construction storm water management). This regulatory language does not mean that a operator of a small MS4 with ordinance making authority can simply fail to pass an ordinance necessary for a § 122.34(b) program. The reference to “the extent allowable under * * * local law” refers to the local laws of *other* political subdivisions to which the MS4 operator is subject. Rather, a small MS4 operator that seeks to implement a program under section § 122.34(b) may omit a requirement to develop an ordinance or other regulatory mechanism only to the extent its municipal charter, State constitution or other legal authority prevents the operator from exercising the necessary authority. EPA understand that today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

EPA has been working with the PRASA and other State Agencies in the collaboration to remove to a maximum extent possible sanitary sewer discharge into impaired and nonimpaired waterbodies without treatment. Specifically, since 1999 EPA have been working to minimize the sewage overflows from the PRASA’s sanitary sewer system in the municipality of Caguas. EPA has issued numerous enforcement actions against PRASA to request among other things,

the construction of sewer lines with bigger capacity, the implementation of a sanitary sewer line clean-up plan, etc., in order to minimize the discharge of sewage into the municipal storm drain and waters of the US.

On July 1, 2003, EPA and PRASA entered into a Consent Decree in Federal Court to address the deficiencies of all PRASA sewage pump stations in Puerto Rico. The Decree requires PRASA among other things the development and implementation of remedial actions at pump stations in critical conditions in order to eliminate sewage overflows; the development and implementation of a system wide Operation and Maintenance to program to ensure that these stations are properly operated at all times; and the development and implementation of Spill Response and Cleanup Plan (SRCP) to properly address any sewage overflow that occur from any of these stations within the Commonwealth. Recent inspections performed by EPA at these stations have indicated that a lot of progress have been made, which has resulted in the reduction of sewage overflows.

In addition, on June 22, 2006, a new Consent Decree between EPA and PRASA was entered in Federal Court. This decree mainly requires PRASA to implement measures to address non-compliance at all their wastewater treatment plants. However, an additional component of the decree is that PRASA is required to conduct a sanitary sewer system evaluation of all their collection system. These evaluations are required to detect illegal connections into the storm drain, sewer line collapses, sewer line clogs, capacity management issues, infiltration or inflow problems, etc. It is expected that once these evaluations are done and the repairs are properly addressed, there shall be a significant reduction of sewage overflows from the PRASA sanitary sewer system

Comment 10:

We also want to establish our geographical disadvantage, knowing that the Municipality of Caguas is located in a river valley, and many of the river systems that pass through our area originate in other municipalities, from which we have no control of their discharges and in most cases, the surrounding municipalities are not complying with the NPDES Phase II Permit.

Response 10:

Under 40 CFR § 122.30, EPA strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health. EPA recognize that the Municipality of Caguas is located within the lower section of the watershed. However, today's general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today's general permit facilitates watershed planning and compliance.

Comment 11:

In process of developing our Storm Water Management Program (SWMP), we have noticed that there are very high costs associated with the implementation of this Permit and its TMDL

Program. A study made in 2003 by ETAG Corporation and The O'Brien & Gere Companies for the Municipality of Caguas, showed that an average of \$1,044,236 was required annually to manage the SWMP. Puerto Rico is in the midst of an economic adjustment, where the living costs to our society have been elevated. We know of some examples of other SWMP in the US where a storm water fee was imposed to the citizens of the MS4, but we at this moment, do not have the mechanisms to do this and cannot make more financial demands of the citizens of Caguas. This is a very ambitious program and most (if not all) of the Municipalities in Puerto Rico do not have sufficient funds to start running the SWMP. Will there be any financial help from EPA of the federal government to establish the programs? Could the Clean Water Act Section 319 Funds be used for implementation of SWMP?

Response 11:

EPA has no independent authority to establish a funding mechanism. Although Congress did not establish a fund to fully finance implementation of the existing NPDES storm water program under section 402(p)(6), numerous Federal financing programs (administered by EPA and other Federal agencies) could provide some financial assistance. These programs include the CWA section 106 grant program, CWA section 104(b)(3) grant program, State surface and ground water management programs under the Safe Drinking Water Act, the environmental quality incentives program, the conservation reserve program, the wetlands reserve program, and the estuary management and Federal monitoring programs. Also, the Natural Resources Conservation Service (NRCS) has some grants available to assist in projects related to erosion and sediment controls. The Agency anticipates that some of these programs would provide funds to help develop and, in limited circumstances, implement the section 402(p)(6) storm water program. Because some Federal funds are only available for limited purposes, for example, nonpoint source control programs, and because section 402(p)(6) describes a program for controlling point source discharges of storm water.

In 1987, section 319 was added to the CWA to provide a framework for funding State and local efforts to address pollutants from nonpoint sources not addressed by the NPDES program. State nonpoint source programs funded under section 319 can include both regulatory and nonregulatory State and local approaches. Section 319(b)(2)(B) specifies that a combination of “nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects” may be used, as necessary, to achieve implementation of the BMPs or measures identified in the section 319 submittals. In lieu of actual dollars, cost-cutting assistance may be provided. The State, as part of section 319, may develop or have outreach materials for MS4s to distribute which provides society the knowledge of reducing pollutants within the watershed as a local effort.

EPA also understands that monetized benefits (e.g., freshwater recreational, health, environmental and flood control benefits) will result in the implementation of today’s general permit. There are additional benefits to storm water control that cannot be quantified or monetized, such as improved aesthetic quality of waters, benefits to wildlife and to threatened and endangered species, option existence values, cultural values, and biodiversity benefits.

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MEP is a standard that establishes the level of pollutant reductions that MS4 operators must achieve through implementation of a storm water management program. The pollutant reductions that represent MEP may be different for each municipality, given the unique storm water concerns that may exist and the differing possible remedies. EPA envisions that permittees will determine what the MEP is on a location-by-location basis and consider such factors as conditions of receiving waters, specific local concerns, and other aspects of a comprehensive watershed plan. Therefore, each permittee would determine the specific details in each of the six minimum control measures that represent MEP through an evaluative process. In this process, permittees and permit writers would evaluate the proposed storm water management controls to determine whether reduction of pollutants to the MEP could be achieved with the identified BMPs. Beside the impaired waterbodies, MEP would also be applicable to nonimpaired waterbodies.

Comment 6:

Knowing of the lack of information available to the Municipality of Caguas to have all the needed and up to date information about the 303(d) listed water bodies and TMDL values for the Rio Grande de Loiza Watershed, we cannot determine whether a storm water discharge from any part of our MS4 significantly contributes directly or indirectly to a 303(d) listed water body. At this moment, we are not in the position to determine what will be our compliance, because data is not available for us to use a guide.

Response 6:

EPA understand the concern of the Municipality of Caguas regarding access to information on TMDL for Puerto Rico. However, this must not impair the Municipality in the compliance with the requirements of today's general permit. Because so many diverse factors can dictate the specifics of a storm water management program, you should determine appropriate BMPs to satisfy each of the minimum control measures through an evaluative process. The definition of "MEP" should adapt continually to both current conditions and BMP effectiveness, but ultimately, successive iterations of the mix of BMPs and measurable goals should be made to achieve the objective of meeting water quality standards. If, after implementing the minimum control measures, there is still water quality impairment associated with discharges from the

MS4, you will need to expand or better tailor your BMPs. NPDES permitting authorities will review the identified BMPs and measurable goals and determine if they are likely to reduce pollutants to the MEP, protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act. If the permitting authority does not think that you are reducing pollutants to the MEP, they can request that you revise your mix of BMPs and measurable goals.

The Puerto Rico Environmental Quality Board (PREQB) has performed a thorough job in the development and approval of TMDLs in several segments of various watersheds in Puerto Rico. They are continuously working to have TMDLs developed for those impaired waterbodies. You may find the approved TMDLs and their watersheds at our website at www.epa.gov/owow/tmdl. You may also would like to consider contacting the PREQB at (787) 767-8181 for further information regarding TMDLs.

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What is the difference between an individual permit and a general permit and what are the considerations the EPA evaluates to determine which applies? Which is more restrictive, individual or general?

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EPA wants to emphasize that, except for the procedural differences set out at 40 CFR Part 122.28 in the NPDES regulations, general permits are analogous to individual permits in every respect. General permits are still subject to the same reporting and monitoring requirements, limitation, enforcement provisions, penalties, and other substantive requirements as individual permits. General permits should be viewed as an administrative tool enabling the issuance of one permit to authorize a group of dischargers.

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We know from the 1998 USGS Water Quality Study done in our watershed, that one of our principal pollutants is fecal coliforms. We have established on record that the vast majority of illicit discharges are from sanitary sewer overflows that discharge into our MS4, illegal connections from sanitary line to storm water lines and faulty or broken sanitary sewer lines. PRASA is the owner of these sanitary sewer systems statewide. The Municipality of Caguas wants to establish that we have no jurisdiction over this system and have no control over corrections, repairs and replacements of sanitary sewer lines or systems. Will this fact be taken into consideration when responsibility for this Permit is established and what are the requirements, if any, that EPA will make to PRASA to make the required corrections and maintenance of the sanitary sewer system? Will this Permit allow us to create a mechanism to expedite fines to PRASA for affecting our MS4 discharge?

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the construction of sewer lines with bigger capacity, the implementation of a sanitary sewer line clean-up plan, etc., in order to minimize the discharge of sewage into the municipal storm drain and waters of the US.

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Comment 10:

We also want to establish our geographical disadvantage, knowing that the Municipality of Caguas is located in a river valley, and many of the river systems that pass through our area originate in other municipalities, from which we have no control of their discharges and in most cases, the surrounding municipalities are not complying with the NPDES Phase II Permit.

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In process of developing our Storm Water Management Program (SWMP), we have noticed that there are very high costs associated with the implementation of this Permit and its TMDL

Program. A study made in 2003 by ETAG Corporation and The O'Brien & Gere Companies for the Municipality of Caguas, showed that an average of \$1,044,236 was required annually to manage the SWMP. Puerto Rico is in the midst of an economic adjustment, where the living costs to our society have been elevated. We know of some examples of other SWMP in the US where a storm water fee was imposed to the citizens of the MS4, but we at this moment, do not have the mechanisms to do this and cannot make more financial demands of the citizens of Caguas. This is a very ambitious program and most (if not all) of the Municipalities in Puerto Rico do not have sufficient funds to start running the SWMP. Will there be any financial help from EPA of the federal government to establish the programs? Could the Clean Water Act Section 319 Funds be used for implementation of SWMP?

Response 11:

EPA has no independent authority to establish a funding mechanism. Although Congress did not establish a fund to fully finance implementation of the existing NPDES storm water program under section 402(p)(6), numerous Federal financing programs (administered by EPA and other Federal agencies) could provide some financial assistance. These programs include the CWA section 106 grant program, CWA section 104(b)(3) grant program, State surface and ground water management programs under the Safe Drinking Water Act, the environmental quality incentives program, the conservation reserve program, the wetlands reserve program, and the estuary management and Federal monitoring programs. Also, the Natural Resources Conservation Service (NRCS) has some grants available to assist in projects related to erosion and sediment controls. The Agency anticipates that some of these programs would provide funds to help develop and, in limited circumstances, implement the section 402(p)(6) storm water program. Because some Federal funds are only available for limited purposes, for example, nonpoint source control programs, and because section 402(p)(6) describes a program for controlling point source discharges of storm water.

In 1987, section 319 was added to the CWA to provide a framework for funding State and local efforts to address pollutants from nonpoint sources not addressed by the NPDES program. State nonpoint source programs funded under section 319 can include both regulatory and nonregulatory State and local approaches. Section 319(b)(2)(B) specifies that a combination of “nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects” may be used, as necessary, to achieve implementation of the BMPs or measures identified in the section 319 submittals. In lieu of actual dollars, cost-cutting assistance may be provided. The State, as part of section 319, may develop or have outreach materials for MS4s to distribute which provides society the knowledge of reducing pollutants within the watershed as a local effort.

EPA also understands that monetized benefits (e.g., freshwater recreational, health, environmental and flood control benefits) will result in the implementation of today’s general permit. There are additional benefits to storm water control that cannot be quantified or monetized, such as improved aesthetic quality of waters, benefits to wildlife and to threatened and endangered species, option existence values, cultural values, and biodiversity benefits.

ATTACHMENT I

**RESPONSE TO COMMENTS ON
DRAFT NPDES PERMIT FOR
Small Municipal Separate Storm Sewer Systems**

On November 8, 2005, the United States Environmental Protection Agency (EPA) issued a draft National Pollutant Discharge Elimination System (NPDES) permit for applicable coverage in the Commonwealth of Puerto Rico. Public notice of the draft permit was provided in the San Juan Star on December 10, 2005. The public comment period for the draft NPDES permit expired on February 6, 2006.

According to 40 Code of Federal Regulations (CFR) §124.17, at the time that any final permit decision is issued under §124.15, EPA shall issue a response to comments. This response shall (1) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and (2) briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

Comments on behalf of the Municipality of Caguas were received in a letter dated February 2, 2006 from Mayor William Miranda from the following address:

**Commonwealth of Puerto Rico
Autonomous Municipality of Caguas
P. O. Box 907
Caguas, Puerto Rico 00726-0907**

All comments received have been reviewed and considered in this final permit decision. A discussion and response to the comments received is as follows:

Comment 1:

Although the Municipality of Caguas is classified as an autonomous municipality under the Commonwealth of Puerto Rico, many regulations and/or authorities related with the minimum control measures requested by EPA are responsibilities of regulatory agencies such as the Puerto Rico Environmental Quality Board, Natural Resources Department, PRASA, ARPE, DTOP and others. Are those agencies aware of their responsibility to back up the designated MS4s and give support whenever the cities do not have jurisdiction?

As an example of this issue, CALTRANS (California Department of Transportation) submitted an application for the Permit. The storm water regulations defined discharges from MS4s located in urbanized areas as point sources to be permitted by an NPDES storm water permit. The definition included MS4s associated with roads and highways. This resulted in CALTRANS being required to obtain NPDES storm water permits for its facilities located in urbanized areas of the State. Through our jurisdiction, we have several state roads and highways that discharge

pollutants into our local waters, we have no way or regulating these discharges because we are not the owners of these systems. What will be done in these cases? Will these agencies that own or operate MS4s be required to submit an application for a Permit?

Response 1:

The final rule, promulgated in December 9, 1999, extended the NPDES program to include discharges from the following: small MS4s within urbanized areas (with the exception of systems waived from the requirements by the NPDES permitting authority); other small MS4s meeting designation criteria to be established by the permitting authority; and any remaining MS4 that contributes substantially to the storm water pollutant loadings of a physically interconnected MS4 already subject to regulation under the NPDES program. Small MS4s include urban storm sewer systems owned by Tribes, States, political subdivisions of States (including “municipios”), as well as the United States, and other systems located within an urbanized area that fall within the definition of an MS4. These include, for example, State departments of transportation (DOTs), public universities, penitentiaries, military installations and similar institutions with separate storm sewers drainage area.

Today’s final general permit requires all regulated small MS4s, including State DOTs, to seek coverage under the general permit and to develop and implement a storm water management program. Program components include, at a minimum, 6 minimum measures to address: public education and outreach; public involvement; illicit discharge detection and elimination; construction site runoff control; post-construction storm water management in new development and redevelopment; and pollution prevention and good housekeeping of municipal operations. A regulated small MS4 is required to submit to the NPDES permitting authority, either in its notice of intent (NOI) or individual permit application, the BMPs to be implemented and the measurable goals for each of the minimum control measures listed above.

Comment 2:

In relation to the Post-Construction Runoff Control Measures requested by EPA, the actual Construction Codes in Puerto Rico have to be upgraded or updated to consider the compliance of this new regulation. It is possible to consider the revision of the Construction Codes of Puerto Rico before requesting the MS4s compliance with this task?

Response 2:

EPA believes this concern should be raised to the proper State agency by the small MS4 and other regulated public entities. EPA can not require to update the Construction Codes in Puerto Rico. However, today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

Comment 3:

The municipality of Caguas in the 2000 Census had a population of 140,502 inhabitants. Does the definition of Small MS4s still apply or is the Municipality of Caguas by definition considered a medium MS4s?

Response 3:

In December 8, 1999, EPA promulgated the Storm Water Final Rule Phase 2. In this notice EPA defined municipal separate storm sewer system. The existing municipal permit application regulations define “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) as determined by the latest Decennial Census (see §§ 122.26(b)(4) and 122.26(b)(7)). In this final rule, the regulations were revised to define all medium and large MS4s as those meeting the above population thresholds according to the 1990 Decennial Census. EPA has added those incorporated places and counties whose 1990 population caused them to be defined as a “medium” or “large” MS4. All of these MS4s have applied for permit coverage so the effect of this change to the appendices is simply to make them more accurate. They will not need to be revised again because this rule “freezes” the definition of “medium” and “large” MS4s at those that qualified based on the 1990 census. The decision was based on the fact that the deadlines from the existing regulations have lapsed, and because the permitting authority can always require more from operators of MS4s serving “newly over 100,000” populations. All MS4s located in Phase 1 cities or counties are defined as Phase 1 medium or large MS4s.

However, EPA understands that the definition for “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) under Phase 1 is not applicable to the governmental boundary structure in the Commonwealth of Puerto Rico. The Phase 2 final rule designates all small MS4s located in an urbanized area are “regulated” small MS4s provided they were not previously designated into the existing storm water program. A definition of small MS4 is provided in Response number one. EPA recognizes that all regulated MS4s in Puerto Rico are classified under the Phase 2 Storm Water Program. Therefore, the Municipality of Caguas has been designated as a small MS4 based on the Phase 2 final rule.

Comment 4:

The Permit states in the Fact Sheet and Supplemental Information Part I.f that “This general permit implements the requirements of the Phase 2 program for small municipal separate storm water sewer systems in urbanized areas”. There are some areas in our municipality that are rural areas that do not have storm water systems or sanitary sewer systems, but by the population density definition in the Census it is considered an urbanized area (hereafter referred to as “UA”). What can be done in these cases where there is no system? Also, the map from the 2000 Census shows spots outside and away from urban areas that are classified as UA but are in rural areas. How will this affect our mapping and Permit Coverage, should we include only “spots” defined as of UA as part of the Permit or should we include also the areas located between these spots and the urban areas?

Response 4:

EPA adopted the definition of “urbanized area” from the Bureau of the Census (55 FR 42592). The term “urbanized area” comprises a place and the adjacent densely settled surrounding territory that together have a minimum population of 50, 000 people. The “densely settled surrounding territory” adjacent to the place consists of:

1. Territory made up of one or more contiguous census blocks having a population density of at least 1,000 people per square mile that it is:
 - a. Contiguous with and directly connected by road to other qualifying territory, or
 - b. Noncontiguous with other qualifying territory, and:
 - (1) Within 1.5 road miles of the main body of the urbanized area and connected to it by one or more nonqualifying census blocks that [a] are adjacent to the connecting road and [b] together with the outlying qualifying territory have a total population density of at least 500 people per square mile, or
 - (2) Separated by water or other undevelopable territory from the main body of the urbanized area, but within 5 road miles of the main body of the urbanized area, as long as the 5 miles include no more than 1 ½ miles of otherwise nonqualifying developable territory.
2. A place containing territory qualifying on the basis of criterion 1 [above] will be included in the urbanized area in its entirety (or partially, if the place is an extended city) if that qualifying territory includes at least 50 percent of the population of the place. If the place does not contain any territory qualifying on the basis of the above criterion, or if that qualifying territory includes less than 50 percent of the place’s population, the place is excluded in its entirety.
3. Other territory with a population density of less than 1,000 persons per square mile, provided that it:
 - a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for the urbanized area when the surrounding territory qualifies on the basis of population density, or
 - b. Closes an indentation in the boundary of the territory otherwise qualifying for the urbanized area when the contiguous territory qualifies on the basis of population density, provided that the indentation is no more than 1 mile across the open end, has a depth at least two times greater than the distance across the open end, and encompasses no more than 5 square miles.

In January 9, 1998, EPA established in the proposed rule for the Commonwealth of Puerto Rico, to regulate the entire municipio where the total population is equal to or greater than 100,000. Those municipios include Bayamon, Caguas, Carolina, Mayagüez, Ponce, and San Juan. For the other municipios that are located within an urbanized area and have populations of less than

100,000, only the pueblo will be regulated. This designation will provide the coverage of geographical gaps in NPDES storm water program's regulatory scheme, as mentioned above.

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If one or more of our outfalls does not discharge directly into a 303(d) listed impaired water body, is the Municipality's responsibility only to require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP) and is monitoring by samples and measurements only required for discharges to a 303(d) listed water body?

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Response 11:

EPA has no independent authority to establish a funding mechanism. Although Congress did not establish a fund to fully finance implementation of the existing NPDES storm water program under section 402(p)(6), numerous Federal financing programs (administered by EPA and other Federal agencies) could provide some financial assistance. These programs include the CWA section 106 grant program, CWA section 104(b)(3) grant program, State surface and ground water management programs under the Safe Drinking Water Act, the environmental quality incentives program, the conservation reserve program, the wetlands reserve program, and the estuary management and Federal monitoring programs. Also, the Natural Resources Conservation Service (NRCS) has some grants available to assist in projects related to erosion and sediment controls. The Agency anticipates that some of these programs would provide funds to help develop and, in limited circumstances, implement the section 402(p)(6) storm water program. Because some Federal funds are only available for limited purposes, for example, nonpoint source control programs, and because section 402(p)(6) describes a program for controlling point source discharges of storm water.

In 1987, section 319 was added to the CWA to provide a framework for funding State and local efforts to address pollutants from nonpoint sources not addressed by the NPDES program. State nonpoint source programs funded under section 319 can include both regulatory and nonregulatory State and local approaches. Section 319(b)(2)(B) specifies that a combination of “nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects” may be used, as necessary, to achieve implementation of the BMPs or measures identified in the section 319 submittals. In lieu of actual dollars, cost-cutting assistance may be provided. The State, as part of section 319, may develop or have outreach materials for MS4s to distribute which provides society the knowledge of reducing pollutants within the watershed as a local effort.

EPA also understands that monetized benefits (e.g., freshwater recreational, health, environmental and flood control benefits) will result in the implementation of today’s general permit. There are additional benefits to storm water control that cannot be quantified or monetized, such as improved aesthetic quality of waters, benefits to wildlife and to threatened and endangered species, option existence values, cultural values, and biodiversity benefits.

ATTACHMENT I

**RESPONSE TO COMMENTS ON
DRAFT NPDES PERMIT FOR
Small Municipal Separate Storm Sewer Systems**

On November 8, 2005, the United States Environmental Protection Agency (EPA) issued a draft National Pollutant Discharge Elimination System (NPDES) permit for applicable coverage in the Commonwealth of Puerto Rico. Public notice of the draft permit was provided in the San Juan Star on December 10, 2005. The public comment period for the draft NPDES permit expired on February 6, 2006.

According to 40 Code of Federal Regulations (CFR) §124.17, at the time that any final permit decision is issued under §124.15, EPA shall issue a response to comments. This response shall (1) specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and (2) briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any hearing.

Comments on behalf of the Municipality of Caguas were received in a letter dated February 2, 2006 from Mayor William Miranda from the following address:

**Commonwealth of Puerto Rico
Autonomous Municipality of Caguas
P. O. Box 907
Caguas, Puerto Rico 00726-0907**

All comments received have been reviewed and considered in this final permit decision. A discussion and response to the comments received is as follows:

Comment 1:

Although the Municipality of Caguas is classified as an autonomous municipality under the Commonwealth of Puerto Rico, many regulations and/or authorities related with the minimum control measures requested by EPA are responsibilities of regulatory agencies such as the Puerto Rico Environmental Quality Board, Natural Resources Department, PRASA, ARPE, DTOP and others. Are those agencies aware of their responsibility to back up the designated MS4s and give support whenever the cities do not have jurisdiction?

As an example of this issue, CALTRANS (California Department of Transportation) submitted an application for the Permit. The storm water regulations defined discharges from MS4s located in urbanized areas as point sources to be permitted by an NPDES storm water permit. The definition included MS4s associated with roads and highways. This resulted in CALTRANS being required to obtain NPDES storm water permits for its facilities located in urbanized areas of the State. Through our jurisdiction, we have several state roads and highways that discharge

pollutants into our local waters, we have no way or regulating these discharges because we are not the owners of these systems. What will be done in these cases? Will these agencies that own or operate MS4s be required to submit an application for a Permit?

Response 1:

The final rule, promulgated in December 9, 1999, extended the NPDES program to include discharges from the following: small MS4s within urbanized areas (with the exception of systems waived from the requirements by the NPDES permitting authority); other small MS4s meeting designation criteria to be established by the permitting authority; and any remaining MS4 that contributes substantially to the storm water pollutant loadings of a physically interconnected MS4 already subject to regulation under the NPDES program. Small MS4s include urban storm sewer systems owned by Tribes, States, political subdivisions of States (including “municipios”), as well as the United States, and other systems located within an urbanized area that fall within the definition of an MS4. These include, for example, State departments of transportation (DOTs), public universities, penitentiaries, military installations and similar institutions with separate storm sewers drainage area.

Today’s final general permit requires all regulated small MS4s, including State DOTs, to seek coverage under the general permit and to develop and implement a storm water management program. Program components include, at a minimum, 6 minimum measures to address: public education and outreach; public involvement; illicit discharge detection and elimination; construction site runoff control; post-construction storm water management in new development and redevelopment; and pollution prevention and good housekeeping of municipal operations. A regulated small MS4 is required to submit to the NPDES permitting authority, either in its notice of intent (NOI) or individual permit application, the BMPs to be implemented and the measurable goals for each of the minimum control measures listed above.

Comment 2:

In relation to the Post-Construction Runoff Control Measures requested by EPA, the actual Construction Codes in Puerto Rico have to be upgraded or updated to consider the compliance of this new regulation. It is possible to consider the revision of the Construction Codes of Puerto Rico before requesting the MS4s compliance with this task?

Response 2:

EPA believes this concern should be raised to the proper State agency by the small MS4 and other regulated public entities. EPA can not require to update the Construction Codes in Puerto Rico. However, today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

Comment 3:

The municipality of Caguas in the 2000 Census had a population of 140,502 inhabitants. Does the definition of Small MS4s still apply or is the Municipality of Caguas by definition considered a medium MS4s?

Response 3:

In December 8, 1999, EPA promulgated the Storm Water Final Rule Phase 2. In this notice EPA defined municipal separate storm sewer system. The existing municipal permit application regulations define “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) as determined by the latest Decennial Census (see §§ 122.26(b)(4) and 122.26(b)(7)). In this final rule, the regulations were revised to define all medium and large MS4s as those meeting the above population thresholds according to the 1990 Decennial Census. EPA has added those incorporated places and counties whose 1990 population caused them to be defined as a “medium” or “large” MS4. All of these MS4s have applied for permit coverage so the effect of this change to the appendices is simply to make them more accurate. They will not need to be revised again because this rule “freezes” the definition of “medium” and “large” MS4s at those that qualified based on the 1990 census. The decision was based on the fact that the deadlines from the existing regulations have lapsed, and because the permitting authority can always require more from operators of MS4s serving “newly over 100,000” populations. All MS4s located in Phase 1 cities or counties are defined as Phase 1 medium or large MS4s.

However, EPA understands that the definition for “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) under Phase 1 is not applicable to the governmental boundary structure in the Commonwealth of Puerto Rico. The Phase 2 final rule designates all small MS4s located in an urbanized area are “regulated” small MS4s provided they were not previously designated into the existing storm water program. A definition of small MS4 is provided in Response number one. EPA recognizes that all regulated MS4s in Puerto Rico are classified under the Phase 2 Storm Water Program. Therefore, the Municipality of Caguas has been designated as a small MS4 based on the Phase 2 final rule.

Comment 4:

The Permit states in the Fact Sheet and Supplemental Information Part I.f that “This general permit implements the requirements of the Phase 2 program for small municipal separate storm water sewer systems in urbanized areas”. There are some areas in our municipality that are rural areas that do not have storm water systems or sanitary sewer systems, but by the population density definition in the Census it is considered an urbanized area (hereafter referred to as “UA”). What can be done in these cases where there is no system? Also, the map from the 2000 Census shows spots outside and away from urban areas that are classified as UA but are in rural areas. How will this affect our mapping and Permit Coverage, should we include only “spots” defined as of UA as part of the Permit or should we include also the areas located between these spots and the urban areas?

Response 4:

EPA adopted the definition of “urbanized area” from the Bureau of the Census (55 FR 42592). The term “urbanized area” comprises a place and the adjacent densely settled surrounding territory that together have a minimum population of 50, 000 people. The “densely settled surrounding territory” adjacent to the place consists of:

1. Territory made up of one or more contiguous census blocks having a population density of at least 1,000 people per square mile that it is:
 - a. Contiguous with and directly connected by road to other qualifying territory, or
 - b. Noncontiguous with other qualifying territory, and:
 - (1) Within 1.5 road miles of the main body of the urbanized area and connected to it by one or more nonqualifying census blocks that [a] are adjacent to the connecting road and [b] together with the outlying qualifying territory have a total population density of at least 500 people per square mile, or
 - (2) Separated by water or other undevelopable territory from the main body of the urbanized area, but within 5 road miles of the main body of the urbanized area, as long as the 5 miles include no more than 1 ½ miles of otherwise nonqualifying developable territory.
2. A place containing territory qualifying on the basis of criterion 1 [above] will be included in the urbanized area in its entirety (or partially, if the place is an extended city) if that qualifying territory includes at least 50 percent of the population of the place. If the place does not contain any territory qualifying on the basis of the above criterion, or if that qualifying territory includes less than 50 percent of the place’s population, the place is excluded in its entirety.
3. Other territory with a population density of less than 1,000 persons per square mile, provided that it:
 - a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for the urbanized area when the surrounding territory qualifies on the basis of population density, or
 - b. Closes an indentation in the boundary of the territory otherwise qualifying for the urbanized area when the contiguous territory qualifies on the basis of population density, provided that the indentation is no more than 1 mile across the open end, has a depth at least two times greater than the distance across the open end, and encompasses no more than 5 square miles.

In January 9, 1998, EPA established in the proposed rule for the Commonwealth of Puerto Rico, to regulate the entire municipio where the total population is equal to or greater than 100,000. Those municipios include Bayamon, Caguas, Carolina, Mayagüez, Ponce, and San Juan. For the other municipios that are located within an urbanized area and have populations of less than

100,000, only the pueblo will be regulated. This designation will provide the coverage of geographical gaps in NPDES storm water program's regulatory scheme, as mentioned above.

Comment 5:

If one or more of our outfalls does not discharge directly into a 303(d) listed impaired water body, is the Municipality's responsibility only to require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP) and is monitoring by samples and measurements only required for discharges to a 303(d) listed water body?

Response 5:

MEP is a standard that establishes the level of pollutant reductions that MS4 operators must achieve through implementation of a storm water management program. The pollutant reductions that represent MEP may be different for each municipality, given the unique storm water concerns that may exist and the differing possible remedies. EPA envisions that permittees will determine what the MEP is on a location-by-location basis and consider such factors as conditions of receiving waters, specific local concerns, and other aspects of a comprehensive watershed plan. Therefore, each permittee would determine the specific details in each of the six minimum control measures that represent MEP through an evaluative process. In this process, permittees and permit writers would evaluate the proposed storm water management controls to determine whether reduction of pollutants to the MEP could be achieved with the identified BMPs. Beside the impaired waterbodies, MEP would also be applicable to nonimpaired waterbodies.

Comment 6:

Knowing of the lack of information available to the Municipality of Caguas to have all the needed and up to date information about the 303(d) listed water bodies and TMDL values for the Rio Grande de Loiza Watershed, we cannot determine whether a storm water discharge from any part of our MS4 significantly contributes directly or indirectly to a 303(d) listed water body. At this moment, we are not in the position to determine what will be our compliance, because data is not available for us to use a guide.

Response 6:

EPA understand the concern of the Municipality of Caguas regarding access to information on TMDL for Puerto Rico. However, this must not impair the Municipality in the compliance with the requirements of today's general permit. Because so many diverse factors can dictate the specifics of a storm water management program, you should determine appropriate BMPs to satisfy each of the minimum control measures through an evaluative process. The definition of "MEP" should adapt continually to both current conditions and BMP effectiveness, but ultimately, successive iterations of the mix of BMPs and measurable goals should be made to achieve the objective of meeting water quality standards. If, after implementing the minimum control measures, there is still water quality impairment associated with discharges from the

MS4, you will need to expand or better tailor your BMPs. NPDES permitting authorities will review the identified BMPs and measurable goals and determine if they are likely to reduce pollutants to the MEP, protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act. If the permitting authority does not think that you are reducing pollutants to the MEP, they can request that you revise your mix of BMPs and measurable goals.

The Puerto Rico Environmental Quality Board (PREQB) has performed a thorough job in the development and approval of TMDLs in several segments of various watersheds in Puerto Rico. They are continuously working to have TMDLs developed for those impaired waterbodies. You may find the approved TMDLs and their watersheds at our website at www.epa.gov/owow/tmdl. You may also would like to consider contacting the PREQB at (787) 767-8181 for further information regarding TMDLs.

Comment 7:

What is the difference between an individual permit and a general permit and what are the considerations the EPA evaluates to determine which applies? Which is more restrictive, individual or general?

Response 7:

EPA wants to emphasize that, except for the procedural differences set out at 40 CFR Part 122.28 in the NPDES regulations, general permits are analogous to individual permits in every respect. General permits are still subject to the same reporting and monitoring requirements, limitation, enforcement provisions, penalties, and other substantive requirements as individual permits. General permits should be viewed as an administrative tool enabling the issuance of one permit to authorize a group of dischargers.

The Court of Appeals, in *NRDC v Train*, 396 F. Supp. 1393 (D.D.C. 1975) *aff'd*, *NRDC v Costle*, 568 F.2d 1369 (D.C.Cir. 1977), encouraged EPA to use its interpretation authority to mitigate burdens in establishing a practical regulatory scheme. Section 402 provides the Agency with flexibility in determining the appropriate scope and form of an NPDES permit. As a result, the Court suggested using area or general permits.

Comment 8:

When the Municipality of Caguas submitted the NOI on March 10, 2003, we did not receive a confirmation receipt nor a letter of completeness from EPA. Does this mean that our NOI has not been yet evaluated? How does this affect our compliance goal?

Response 8:

EPA records show that an acknowledgment letter, dated July 10, 2003, was addressed to the Municipality of Caguas. The letter also advised that the letter does not constitute permit issuance.

The application required the municipality and other governmental entities to seek coverage under a storm water permit by providing information and commence working on the development of a storm water management plan that will enable small MS4s to reduce pollutants to a maximum extent possible. In addition, a copy of the letter was faxed to the Municipality of Caguas on September 13, 2006.

Comment 9:

We know from the 1998 USGS Water Quality Study done in our watershed, that one of our principal pollutants is fecal coliforms. We have established on record that the vast majority of illicit discharges are from sanitary sewer overflows that discharge into our MS4, illegal connections from sanitary line to storm water lines and faulty or broken sanitary sewer lines. PRASA is the owner of these sanitary sewer systems statewide. The Municipality of Caguas wants to establish that we have no jurisdiction over this system and have no control over corrections, repairs and replacements of sanitary sewer lines or systems. Will this fact be taken into consideration when responsibility for this Permit is established and what are the requirements, if any, that EPA will make to PRASA to make the required corrections and maintenance of the sanitary sewer system? Will this Permit allow us to create a mechanism to expedite fines to PRASA for affecting our MS4 discharge?

Response 9:

EPA recognizes that the operators of some small MS4s might not have the authority under State law to implement one or more of the measures using, for example, an ordinance or other regulatory mechanism. To address these situations, each minimum measure in § 122.34(b) that would require the small MS4 operator to develop an ordinance or other regulatory mechanism states that the operator is only required to implement that requirement to “the extent allowable under State, Tribal or local law.” See § 122.34(b)(3)(ii) (illicit discharge elimination), § 122.34(b)(4)(ii) (construction runoff control) and § 122.34(b)(5)(ii) (post-construction storm water management). This regulatory language does not mean that a operator of a small MS4 with ordinance making authority can simply fail to pass an ordinance necessary for a § 122.34(b) program. The reference to “the extent allowable under * * * local law” refers to the local laws of *other* political subdivisions to which the MS4 operator is subject. Rather, a small MS4 operator that seeks to implement a program under section § 122.34(b) may omit a requirement to develop an ordinance or other regulatory mechanism only to the extent its municipal charter, State constitution or other legal authority prevents the operator from exercising the necessary authority. EPA understand that today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

EPA has been working with the PRASA and other State Agencies in the collaboration to remove to a maximum extent possible sanitary sewer discharge into impaired and nonimpaired waterbodies without treatment. Specifically, since 1999 EPA have been working to minimize the sewage overflows from the PRASA’s sanitary sewer system in the municipality of Caguas. EPA has issued numerous enforcement actions against PRASA to request among other things,

the construction of sewer lines with bigger capacity, the implementation of a sanitary sewer line clean-up plan, etc., in order to minimize the discharge of sewage into the municipal storm drain and waters of the US.

On July 1, 2003, EPA and PRASA entered into a Consent Decree in Federal Court to address the deficiencies of all PRASA sewage pump stations in Puerto Rico. The Decree requires PRASA among other things the development and implementation of remedial actions at pump stations in critical conditions in order to eliminate sewage overflows; the development and implementation of a system wide Operation and Maintenance to program to ensure that these stations are properly operated at all times; and the development and implementation of Spill Response and Cleanup Plan (SRCP) to properly address any sewage overflow that occur from any of these stations within the Commonwealth. Recent inspections performed by EPA at these stations have indicated that a lot of progress have been made, which has resulted in the reduction of sewage overflows.

In addition, on June 22, 2006, a new Consent Decree between EPA and PRASA was entered in Federal Court. This decree mainly requires PRASA to implement measures to address non-compliance at all their wastewater treatment plants. However, an additional component of the decree is that PRASA is required to conduct a sanitary sewer system evaluation of all their collection system. These evaluations are required to detect illegal connections into the storm drain, sewer line collapses, sewer line clogs, capacity management issues, infiltration or inflow problems, etc. It is expected that once these evaluations are done and the repairs are properly addressed, there shall be a significant reduction of sewage overflows from the PRASA sanitary sewer system

Comment 10:

We also want to establish our geographical disadvantage, knowing that the Municipality of Caguas is located in a river valley, and many of the river systems that pass through our area originate in other municipalities, from which we have no control of their discharges and in most cases, the surrounding municipalities are not complying with the NPDES Phase II Permit.

Response 10:

Under 40 CFR § 122.30, EPA strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health. EPA recognize that the Municipality of Caguas is located within the lower section of the watershed. However, today's general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today's general permit facilitates watershed planning and compliance.

Comment 11:

In process of developing our Storm Water Management Program (SWMP), we have noticed that there are very high costs associated with the implementation of this Permit and its TMDL

Program. A study made in 2003 by ETAG Corporation and The O'Brien & Gere Companies for the Municipality of Caguas, showed that an average of \$1,044,236 was required annually to manage the SWMP. Puerto Rico is in the midst of an economic adjustment, where the living costs to our society have been elevated. We know of some examples of other SWMP in the US where a storm water fee was imposed to the citizens of the MS4, but we at this moment, do not have the mechanisms to do this and cannot make more financial demands of the citizens of Caguas. This is a very ambitious program and most (if not all) of the Municipalities in Puerto Rico do not have sufficient funds to start running the SWMP. Will there be any financial help from EPA of the federal government to establish the programs? Could the Clean Water Act Section 319 Funds be used for implementation of SWMP?

Response 11:

EPA has no independent authority to establish a funding mechanism. Although Congress did not establish a fund to fully finance implementation of the existing NPDES storm water program under section 402(p)(6), numerous Federal financing programs (administered by EPA and other Federal agencies) could provide some financial assistance. These programs include the CWA section 106 grant program, CWA section 104(b)(3) grant program, State surface and ground water management programs under the Safe Drinking Water Act, the environmental quality incentives program, the conservation reserve program, the wetlands reserve program, and the estuary management and Federal monitoring programs. Also, the Natural Resources Conservation Service (NRCS) has some grants available to assist in projects related to erosion and sediment controls. The Agency anticipates that some of these programs would provide funds to help develop and, in limited circumstances, implement the section 402(p)(6) storm water program. Because some Federal funds are only available for limited purposes, for example, nonpoint source control programs, and because section 402(p)(6) describes a program for controlling point source discharges of storm water.

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Comment 2:

In relation to the Post-Construction Runoff Control Measures requested by EPA, the actual Construction Codes in Puerto Rico have to be upgraded or updated to consider the compliance of this new regulation. It is possible to consider the revision of the Construction Codes of Puerto Rico before requesting the MS4s compliance with this task?

Response 2:

EPA believes this concern should be raised to the proper State agency by the small MS4 and other regulated public entities. EPA can not require to update the Construction Codes in Puerto Rico. However, today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

Comment 3:

The municipality of Caguas in the 2000 Census had a population of 140,502 inhabitants. Does the definition of Small MS4s still apply or is the Municipality of Caguas by definition considered a medium MS4s?

Response 3:

In December 8, 1999, EPA promulgated the Storm Water Final Rule Phase 2. In this notice EPA defined municipal separate storm sewer system. The existing municipal permit application regulations define “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) as determined by the latest Decennial Census (see §§ 122.26(b)(4) and 122.26(b)(7)). In this final rule, the regulations were revised to define all medium and large MS4s as those meeting the above population thresholds according to the 1990 Decennial Census. EPA has added those incorporated places and counties whose 1990 population caused them to be defined as a “medium” or “large” MS4. All of these MS4s have applied for permit coverage so the effect of this change to the appendices is simply to make them more accurate. They will not need to be revised again because this rule “freezes” the definition of “medium” and “large” MS4s at those that qualified based on the 1990 census. The decision was based on the fact that the deadlines from the existing regulations have lapsed, and because the permitting authority can always require more from operators of MS4s serving “newly over 100,000” populations. All MS4s located in Phase 1 cities or counties are defined as Phase 1 medium or large MS4s.

However, EPA understands that the definition for “medium” and “large” MS4s as those located in an incorporated place or county with a population of at least 100,000 (medium) or 250,000 (large) under Phase 1 is not applicable to the governmental boundary structure in the Commonwealth of Puerto Rico. The Phase 2 final rule designates all small MS4s located in an urbanized area are “regulated” small MS4s provided they were not previously designated into the existing storm water program. A definition of small MS4 is provided in Response number one. EPA recognizes that all regulated MS4s in Puerto Rico are classified under the Phase 2 Storm Water Program. Therefore, the Municipality of Caguas has been designated as a small MS4 based on the Phase 2 final rule.

Comment 4:

The Permit states in the Fact Sheet and Supplemental Information Part I.f that “This general permit implements the requirements of the Phase 2 program for small municipal separate storm water sewer systems in urbanized areas”. There are some areas in our municipality that are rural areas that do not have storm water systems or sanitary sewer systems, but by the population density definition in the Census it is considered an urbanized area (hereafter referred to as “UA”). What can be done in these cases where there is no system? Also, the map from the 2000 Census shows spots outside and away from urban areas that are classified as UA but are in rural areas. How will this affect our mapping and Permit Coverage, should we include only “spots” defined as of UA as part of the Permit or should we include also the areas located between these spots and the urban areas?

Response 4:

EPA adopted the definition of “urbanized area” from the Bureau of the Census (55 FR 42592). The term “urbanized area” comprises a place and the adjacent densely settled surrounding territory that together have a minimum population of 50, 000 people. The “densely settled surrounding territory” adjacent to the place consists of:

1. Territory made up of one or more contiguous census blocks having a population density of at least 1,000 people per square mile that it is:
 - a. Contiguous with and directly connected by road to other qualifying territory, or
 - b. Noncontiguous with other qualifying territory, and:
 - (1) Within 1.5 road miles of the main body of the urbanized area and connected to it by one or more nonqualifying census blocks that [a] are adjacent to the connecting road and [b] together with the outlying qualifying territory have a total population density of at least 500 people per square mile, or
 - (2) Separated by water or other undevelopable territory from the main body of the urbanized area, but within 5 road miles of the main body of the urbanized area, as long as the 5 miles include no more than 1 ½ miles of otherwise nonqualifying developable territory.
2. A place containing territory qualifying on the basis of criterion 1 [above] will be included in the urbanized area in its entirety (or partially, if the place is an extended city) if that qualifying territory includes at least 50 percent of the population of the place. If the place does not contain any territory qualifying on the basis of the above criterion, or if that qualifying territory includes less than 50 percent of the place’s population, the place is excluded in its entirety.
3. Other territory with a population density of less than 1,000 persons per square mile, provided that it:
 - a. Eliminates an enclave of no more than 5 square miles in the territory otherwise qualifying for the urbanized area when the surrounding territory qualifies on the basis of population density, or
 - b. Closes an indentation in the boundary of the territory otherwise qualifying for the urbanized area when the contiguous territory qualifies on the basis of population density, provided that the indentation is no more than 1 mile across the open end, has a depth at least two times greater than the distance across the open end, and encompasses no more than 5 square miles.

In January 9, 1998, EPA established in the proposed rule for the Commonwealth of Puerto Rico, to regulate the entire municipio where the total population is equal to or greater than 100,000. Those municipios include Bayamon, Caguas, Carolina, Mayagüez, Ponce, and San Juan. For the other municipios that are located within an urbanized area and have populations of less than

100,000, only the pueblo will be regulated. This designation will provide the coverage of geographical gaps in NPDES storm water program's regulatory scheme, as mentioned above.

Comment 5:

If one or more of our outfalls does not discharge directly into a 303(d) listed impaired water body, is the Municipality's responsibility only to require controls to reduce the discharge of pollutants to the maximum extent practicable (MEP) and is monitoring by samples and measurements only required for discharges to a 303(d) listed water body?

Response 5:

MEP is a standard that establishes the level of pollutant reductions that MS4 operators must achieve through implementation of a storm water management program. The pollutant reductions that represent MEP may be different for each municipality, given the unique storm water concerns that may exist and the differing possible remedies. EPA envisions that permittees will determine what the MEP is on a location-by-location basis and consider such factors as conditions of receiving waters, specific local concerns, and other aspects of a comprehensive watershed plan. Therefore, each permittee would determine the specific details in each of the six minimum control measures that represent MEP through an evaluative process. In this process, permittees and permit writers would evaluate the proposed storm water management controls to determine whether reduction of pollutants to the MEP could be achieved with the identified BMPs. Beside the impaired waterbodies, MEP would also be applicable to nonimpaired waterbodies.

Comment 6:

Knowing of the lack of information available to the Municipality of Caguas to have all the needed and up to date information about the 303(d) listed water bodies and TMDL values for the Rio Grande de Loiza Watershed, we cannot determine whether a storm water discharge from any part of our MS4 significantly contributes directly or indirectly to a 303(d) listed water body. At this moment, we are not in the position to determine what will be our compliance, because data is not available for us to use a guide.

Response 6:

EPA understand the concern of the Municipality of Caguas regarding access to information on TMDL for Puerto Rico. However, this must not impair the Municipality in the compliance with the requirements of today's general permit. Because so many diverse factors can dictate the specifics of a storm water management program, you should determine appropriate BMPs to satisfy each of the minimum control measures through an evaluative process. The definition of "MEP" should adapt continually to both current conditions and BMP effectiveness, but ultimately, successive iterations of the mix of BMPs and measurable goals should be made to achieve the objective of meeting water quality standards. If, after implementing the minimum control measures, there is still water quality impairment associated with discharges from the

MS4, you will need to expand or better tailor your BMPs. NPDES permitting authorities will review the identified BMPs and measurable goals and determine if they are likely to reduce pollutants to the MEP, protect water quality, and satisfy the appropriate water quality requirements of the Clean Water Act. If the permitting authority does not think that you are reducing pollutants to the MEP, they can request that you revise your mix of BMPs and measurable goals.

The Puerto Rico Environmental Quality Board (PREQB) has performed a thorough job in the development and approval of TMDLs in several segments of various watersheds in Puerto Rico. They are continuously working to have TMDLs developed for those impaired waterbodies. You may find the approved TMDLs and their watersheds at our website at www.epa.gov/owow/tmdl. You may also would like to consider contacting the PREQB at (787) 767-8181 for further information regarding TMDLs.

Comment 7:

What is the difference between an individual permit and a general permit and what are the considerations the EPA evaluates to determine which applies? Which is more restrictive, individual or general?

Response 7:

EPA wants to emphasize that, except for the procedural differences set out at 40 CFR Part 122.28 in the NPDES regulations, general permits are analogous to individual permits in every respect. General permits are still subject to the same reporting and monitoring requirements, limitation, enforcement provisions, penalties, and other substantive requirements as individual permits. General permits should be viewed as an administrative tool enabling the issuance of one permit to authorize a group of dischargers.

The Court of Appeals, in *NRDC v Train*, 396 F. Supp. 1393 (D.D.C. 1975) *aff'd*, *NRDC v Costle*, 568 F.2d 1369 (D.C.Cir. 1977), encouraged EPA to use its interpretation authority to mitigate burdens in establishing a practical regulatory scheme. Section 402 provides the Agency with flexibility in determining the appropriate scope and form of an NPDES permit. As a result, the Court suggested using area or general permits.

Comment 8:

When the Municipality of Caguas submitted the NOI on March 10, 2003, we did not receive a confirmation receipt nor a letter of completeness from EPA. Does this mean that our NOI has not been yet evaluated? How does this affect our compliance goal?

Response 8:

EPA records show that an acknowledgment letter, dated July 10, 2003, was addressed to the Municipality of Caguas. The letter also advised that the letter does not constitute permit issuance.

The application required the municipality and other governmental entities to seek coverage under a storm water permit by providing information and commence working on the development of a storm water management plan that will enable small MS4s to reduce pollutants to a maximum extent possible. In addition, a copy of the letter was faxed to the Municipality of Caguas on September 13, 2006.

Comment 9:

We know from the 1998 USGS Water Quality Study done in our watershed, that one of our principal pollutants is fecal coliforms. We have established on record that the vast majority of illicit discharges are from sanitary sewer overflows that discharge into our MS4, illegal connections from sanitary line to storm water lines and faulty or broken sanitary sewer lines. PRASA is the owner of these sanitary sewer systems statewide. The Municipality of Caguas wants to establish that we have no jurisdiction over this system and have no control over corrections, repairs and replacements of sanitary sewer lines or systems. Will this fact be taken into consideration when responsibility for this Permit is established and what are the requirements, if any, that EPA will make to PRASA to make the required corrections and maintenance of the sanitary sewer system? Will this Permit allow us to create a mechanism to expedite fines to PRASA for affecting our MS4 discharge?

Response 9:

EPA recognizes that the operators of some small MS4s might not have the authority under State law to implement one or more of the measures using, for example, an ordinance or other regulatory mechanism. To address these situations, each minimum measure in § 122.34(b) that would require the small MS4 operator to develop an ordinance or other regulatory mechanism states that the operator is only required to implement that requirement to “the extent allowable under State, Tribal or local law.” See § 122.34(b)(3)(ii) (illicit discharge elimination), § 122.34(b)(4)(ii) (construction runoff control) and § 122.34(b)(5)(ii) (post-construction storm water management). This regulatory language does not mean that a operator of a small MS4 with ordinance making authority can simply fail to pass an ordinance necessary for a § 122.34(b) program. The reference to “the extent allowable under * * * local law” refers to the local laws of *other* political subdivisions to which the MS4 operator is subject. Rather, a small MS4 operator that seeks to implement a program under section § 122.34(b) may omit a requirement to develop an ordinance or other regulatory mechanism only to the extent its municipal charter, State constitution or other legal authority prevents the operator from exercising the necessary authority. EPA understand that today’s general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today’s general permit facilitates watershed planning and compliance.

EPA has been working with the PRASA and other State Agencies in the collaboration to remove to a maximum extent possible sanitary sewer discharge into impaired and nonimpaired waterbodies without treatment. Specifically, since 1999 EPA have been working to minimize the sewage overflows from the PRASA’s sanitary sewer system in the municipality of Caguas. EPA has issued numerous enforcement actions against PRASA to request among other things,

the construction of sewer lines with bigger capacity, the implementation of a sanitary sewer line clean-up plan, etc., in order to minimize the discharge of sewage into the municipal storm drain and waters of the US.

On July 1, 2003, EPA and PRASA entered into a Consent Decree in Federal Court to address the deficiencies of all PRASA sewage pump stations in Puerto Rico. The Decree requires PRASA among other things the development and implementation of remedial actions at pump stations in critical conditions in order to eliminate sewage overflows; the development and implementation of a system wide Operation and Maintenance to program to ensure that these stations are properly operated at all times; and the development and implementation of Spill Response and Cleanup Plan (SRCP) to properly address any sewage overflow that occur from any of these stations within the Commonwealth. Recent inspections performed by EPA at these stations have indicated that a lot of progress have been made, which has resulted in the reduction of sewage overflows.

In addition, on June 22, 2006, a new Consent Decree between EPA and PRASA was entered in Federal Court. This decree mainly requires PRASA to implement measures to address non-compliance at all their wastewater treatment plants. However, an additional component of the decree is that PRASA is required to conduct a sanitary sewer system evaluation of all their collection system. These evaluations are required to detect illegal connections into the storm drain, sewer line collapses, sewer line clogs, capacity management issues, infiltration or inflow problems, etc. It is expected that once these evaluations are done and the repairs are properly addressed, there shall be a significant reduction of sewage overflows from the PRASA sanitary sewer system

Comment 10:

We also want to establish our geographical disadvantage, knowing that the Municipality of Caguas is located in a river valley, and many of the river systems that pass through our area originate in other municipalities, from which we have no control of their discharges and in most cases, the surrounding municipalities are not complying with the NPDES Phase II Permit.

Response 10:

Under 40 CFR § 122.30, EPA strongly encourages partnerships and the watershed approach as the management framework for efficiently, effectively, and consistently protecting and restoring aquatic ecosystems and protecting public health. EPA recognize that the Municipality of Caguas is located within the lower section of the watershed. However, today's general permit provides broad discretion to the permittee to develop and implement a storm water management program and meet permit conditions. EPA believes that the flexibility provided in today's general permit facilitates watershed planning and compliance.

Comment 11:

In process of developing our Storm Water Management Program (SWMP), we have noticed that there are very high costs associated with the implementation of this Permit and its TMDL

Program. A study made in 2003 by ETAG Corporation and The O'Brien & Gere Companies for the Municipality of Caguas, showed that an average of \$1,044,236 was required annually to manage the SWMP. Puerto Rico is in the midst of an economic adjustment, where the living costs to our society have been elevated. We know of some examples of other SWMP in the US where a storm water fee was imposed to the citizens of the MS4, but we at this moment, do not have the mechanisms to do this and cannot make more financial demands of the citizens of Caguas. This is a very ambitious program and most (if not all) of the Municipalities in Puerto Rico do not have sufficient funds to start running the SWMP. Will there be any financial help from EPA of the federal government to establish the programs? Could the Clean Water Act Section 319 Funds be used for implementation of SWMP?

Response 11:

EPA has no independent authority to establish a funding mechanism. Although Congress did not establish a fund to fully finance implementation of the existing NPDES storm water program under section 402(p)(6), numerous Federal financing programs (administered by EPA and other Federal agencies) could provide some financial assistance. These programs include the CWA section 106 grant program, CWA section 104(b)(3) grant program, State surface and ground water management programs under the Safe Drinking Water Act, the environmental quality incentives program, the conservation reserve program, the wetlands reserve program, and the estuary management and Federal monitoring programs. Also, the Natural Resources Conservation Service (NRCS) has some grants available to assist in projects related to erosion and sediment controls. The Agency anticipates that some of these programs would provide funds to help develop and, in limited circumstances, implement the section 402(p)(6) storm water program. Because some Federal funds are only available for limited purposes, for example, nonpoint source control programs, and because section 402(p)(6) describes a program for controlling point source discharges of storm water.

In 1987, section 319 was added to the CWA to provide a framework for funding State and local efforts to address pollutants from nonpoint sources not addressed by the NPDES program. State nonpoint source programs funded under section 319 can include both regulatory and nonregulatory State and local approaches. Section 319(b)(2)(B) specifies that a combination of “nonregulatory or regulatory programs for enforcement, technical assistance, financial assistance, education, training, technology transfer, and demonstration projects” may be used, as necessary, to achieve implementation of the BMPs or measures identified in the section 319 submittals. In lieu of actual dollars, cost-cutting assistance may be provided. The State, as part of section 319, may develop or have outreach materials for MS4s to distribute which provides society the knowledge of reducing pollutants within the watershed as a local effort.

EPA also understands that monetized benefits (e.g., freshwater recreational, health, environmental and flood control benefits) will result in the implementation of today’s general permit. There are additional benefits to storm water control that cannot be quantified or monetized, such as improved aesthetic quality of waters, benefits to wildlife and to threatened and endangered species, option existence values, cultural values, and biodiversity benefits.

