



United States Environmental Protection Agency
Region 2
Water Division
290 Broadway
New York, New York 10007

FACT SHEET

**DRAFT NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM
MAYAGÜEZ MUNICIPAL GOVERNMENT PUBLIC WORKS CENTER
PERMIT No. PR0023396**

This Fact Sheet sets forth the principle facts and technical rationale that serve as the legal basis for the requirements of the accompanying draft permit. The draft permit has been prepared in accordance with Clean Water Act (CWA) Section 402 and its implementing regulations at Title 40 of the *Code of Federal Regulations* (CFR), Parts 122 through 124, and the final Water Quality Certificate (WQC) issued by the Puerto Rico Department of Natural and Environmental Resources (DNER) pursuant to CWA Section 401 requirements.

Pursuant to 40 CFR 124.53, the Commonwealth of Puerto Rico must either grant a certification pursuant to CWA Section 401 or waive this certification before the U.S. Environmental Protection Agency (EPA) may issue a final permit. On February 7, 2020, DNER provided in the WQC that the allowed discharge will not cause violations to the applicable water quality standards at the receiving water body if the limitations and monitoring requirements in the WQC are met. In accordance with CWA Section 401, EPA has incorporated the conditions of the final WQC into the draft permit. The WQC conditions are discussed in this Fact Sheet and are no less stringent than allowed by federal requirements. Additional requirements might apply to comply with other sections of the CWA. Review and appeals of limitations and conditions attributable to the WQC were made through the applicable procedures of the Commonwealth of Puerto Rico and not through EPA procedures.

PART I. BACKGROUND

A. Permittee and Facility Description

The Mayagüez Municipal Government Public Works Center (referred to throughout as the Permittee) has applied for renewal of its National Pollutant Discharge Elimination System (NPDES) permit. The Permittee is discharging pollutants into a water of the United States pursuant to NPDES Permit No. PR0023396. The Permittee submitted Application Forms 1, and 2A, dated February 14, 2012, and applied for a NPDES permit to discharge treated wastewater from the Mayagüez Municipal Public Works Center's wastewater treatment plant ("Facility" or "WWTP"). The Facility is classified as a minor discharger by EPA in accordance with the EPA rating criteria.

The Permittee proposes to discharge 14.20 m³/day (0.00375 MGD), as daily maximum flow of tertiary treated wastewater from the WWTP through the discharge point of 001 into Caño Boquilla, a water of the United States. The tertiary treatment system consists of filtration and disinfection.

Summary of Permittee and Facility Information

Permittee	Mayagüez Municipal Public Works Center
Facility contact, title, phone	Jose Javier Rodriguez, Director, (787) 834-4010
Permittee (mailing) address	P.O. Box 447, Mayagüez, Puerto Rico 00681-0447
Facility (location) address	State Road No. 108, km 3.2 Interior, Camino Cuba Street, Miradero Ward, Mayagüez, Puerto Rico
Type of facility	POTW
Pretreatment program	No
Facility monthly average flow	0.00151 MGD
Facility design flow	0.00375 MGD
Facility classification	Minor

B. Discharge Points and Receiving Water Information

Wastewater is discharged from Outfall 001 to Caño Boquilla, a water of the United States, which flows into the Bahía de Añasco.

The draft permit authorizes the discharge from the following discharge point(s):

Outfall	Effluent description	Outfall latitude	Outfall longitude	Receiving water name and classification
001	Tertiary treated municipal wastewater.	18°, 14', 15.14" N	67°, 08', 31.08" W	Caño Boquilla, Class SD

As indicated in the Puerto Rico Water Quality Standards (PRWQS) Regulations, the designated uses for Class SD receiving waters include:

1. Primary and secondary recreation; and
2. Propagation and preservation of desirable species, including threatened and endangered species.

CWA section 303(d) requires the Commonwealth of Puerto Rico to develop a list of impaired waters, establish priority rankings for waters on the list, and develop TMDLs for those waters. The receiving water has not been determined to have water quality impairments for one or more of the designated uses as determined by section 303(d) of the CWA.

C. Mixing Zone/Dilution Allowance

A mixing zone or dilution allowance has not been authorized for the discharger.

D. Compliance Orders/Consent Decrees

The Permittee does not have any compliance orders or consent decrees that affect this permit action.

E. Summary of Basis for Effluent Limitations and Permit Conditions - General

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with the following, as applicable:

1. Clean Water Act Section 401 certification (see WQC, dated February 7, 2020)
2. NPDES regulations (40 CFR Part 122)
3. PRWQS (April 2019).
4. Secondary Treatment Requirements (40 CFR 133)

PART II. RATIONALE FOR EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

CWA section 301(b) and 40 CFR 122.44(d) require that permits include limitations more stringent than applicable technology-based requirements where necessary to achieve applicable water quality standards. In addition, 40 CFR 122.44(d)(1)(i) requires that permits include effluent limitations for all pollutants that are or may be discharged at levels that cause, have the reasonable potential to cause, or contribute to an exceedance of a water quality criterion, including a narrative criterion. The process for determining reasonable potential and calculating water quality-based effluent limits (WQBELs) is intended to protect the designated uses of the receiving water and achieve applicable water quality criteria. Where reasonable potential has been established for a pollutant, but there is no numeric criterion for the pollutant, WQBELs must be established using (1) EPA criteria guidance under CWA section 304(a), supplemented where necessary by other relevant information; (2) an indicator parameter for the pollutant of concern; or (3) a calculated numeric water quality criterion, such as a proposed state criterion or policy interpreting the state's narrative criterion, supplemented with other relevant information, as provided in 40 CFR 122.44(d)(1)(vi).

The effluent limitations and permit conditions in the permit have been developed to ensure compliance with all federal and state regulations, including PRWQS. The basis for each limitation or condition is discussed below.

A. Effluent Limitations

The permit establishes both Technology-based Effluent Limitations (TBELs) and Water Quality Based Effluent Limits (WQBELs) for several pollutants, and the basis for these limitations are discussed below.

1. **5-Day Biochemical Oxygen Demand (BOD₅):** The effluent concentration and percent removal limitations are based on technology-based secondary treatment standards for publicly owned treatment works (POTWs) specified in 40 CFR Part 133 and the WQC. The permit also requires influent monitoring and reporting in accordance with 40 CFR 122.44(l) to meet the requirement of the percent removal limitation (see section C.1. Monitoring Requirements of this Part).
2. **Color:** The effluent limitation is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(e) of PRWQS, and the WQC.
3. **Dissolved Oxygen (DO):** The effluent limitation is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(a) of PRWQS, and the WQC.
4. **Enterococci:** The effluent limitation is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(c) of PRWQ limit for the first three years of the permit was developed as part of a compliance plan to ensure that the recreational use of the water body is met.
5. **Flow:** An effluent limitation for flow has been established in the permit. Monitoring conditions are applied pursuant to 40 CFR 122.21(j)(4)(ii) and the WQC.
6. **Oil and Grease:** The effluent limitation is based on the water quality criterion for all waters in Puerto Rico as specified in Rule 1303.1(H) of PRWQS, and the WQC.
7. **Other Pathogenic Organisms:** The effluent limitation is based on the water quality criterion for all waters in Puerto Rico as specified in Rule 1303.1(I) of PRWQS, and the WQC.
8. **pH:** The effluent limitation for pH is based on technology-based secondary treatment standards for POTWs specified in 40 CFR 133.102(c).
9. **Residual Chlorine:** The effluent limitation for Residual Chlorine is based on the water quality criterion for Class SD waters as specified in Rule 1303.1(J) of PRWQS, and the WQC.
10. **Solids and Other Matter:** The effluent limitation is based on the water quality criterion for all waters in Puerto Rico as specified in Rule 1303.1(A) of PRWQS, and the WQC.
11. **Sulfide:** The effluent limitation for Sulfide is based on the water quality criterion for Class SD waters as specified in Rule 1303.1(J) of PRWQS, and the WQC.
12. **Surfactants as MBAS:** The effluent limitation for Total Ammonia Nitrogen is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(i) of PRWQS.
13. **Suspended Colloidal or Settleable Solids:** The effluent limitation is based on the water quality criterion for all waters in Puerto Rico as specified in Rule 1303.1(E) of PRWQS, and the WQC.

14. **Taste and Odor Producing Substances:** The narrative effluent limitation for taste and odor producing substances is based on the water quality criterion as specified in Rule 1303.1(B) of the PRWQS and the WQC.
15. **Temperature:** The effluent limitation for temperature is based on the water quality criterion for all waters in Puerto Rico as specified in Rule 1303.1(D) of PRWQS, and the WQC. The effluent limitation for temperature in the PRWQS has been updated since the existing permit was written.
16. **Total Ammonia Nitrogen:** The effluent limitation for Total Ammonia Nitrogen is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(l) of PRWQS, and the WQC.
17. **Total Dissolved Solids (TDS):** The effluent limitation is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(g) of PRWQS, and the WQC.
18. **Total Nitrogen:** The effluent limitation for Total Ammonia Nitrogen is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(m) of PRWQS, and the WQC. An interim limit for the first three years of the permit was developed as part of a compliance plan for improvements to the Wastewater Treatment Plant for advanced biological nutrient removal.
19. **Total Phosphorus:** The effluent limitation for Total Ammonia Nitrogen is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(n) of PRWQS, and the WQC. An interim limit for the first three years of the permit was developed as part of a compliance plan for improvements to the Wastewater Treatment Plant for advanced biological nutrient removal.
20. **Total Suspended Solids (TSS):** The effluent concentration and percent removal limitations are based on technology-based secondary treatment standards for POTWs specified in 40 CFR 133. The permit also requires influent monitoring and reporting in accordance with 40 CFR 122.44(l) to meet the requirement of the percent removal limitation (see section C.1. Monitoring Requirements of this Fact Sheet).
21. **Turbidity:** The effluent limitation is based on the water quality criterion for Class SD waters as specified in Rule 1303.2(C)(2)(f) of PRWQS, and the WQC.
22. **Whole Effluent Toxicity (WET):** CWA Section 101(a) establishes a national policy of restoring and maintaining the chemical, physical, and biological integrity of the nation's waters. Specifically, CWA Section 101(a)(3) and PRWQS Rule 1303(l) prohibit the discharge of toxic pollutants in toxic amounts. Federal regulations at 40 CFR 122.44(d) also require that where the permitting authority determines, through the analysis of site-specific WET data, that a discharge causes, shows a reasonable potential to cause, or contributes to an excursion above a water quality standard, including a narrative water quality criterion, the permitting authority must establish effluent limits for WET. To satisfy the requirements of the CWA, its implementing regulations, and the PRWQS, a reasonable potential analysis for WET was conducted for this discharge.

PRWQS do not provide a numeric criterion for toxicity. Therefore, consistent with the recommendations of section 2.3.3 of EPA's *Technical Support Document (TSD) for Water Quality-Based Toxics Control* (EPA-505-2-90-001), values of 0.3 acute toxic unit (TU_a) and 1.0 chronic toxic unit (TU_c) were used to interpret the narrative water quality criteria for WET established in PRWQS Rule 1303(l). No numeric effluent limitations for WET have been established in the permit. However, the facility may be required to conduct semi-annual acute toxicity tests for a period of 1 year, after which tests shall be performed annually. Based on the test results, EPA or PREQB can require additional toxicity tests, including chronic tests and toxicity/treatability studies, and may impose toxicity limitations.

In addition, the permit establishes a requirement for the Permittee to conduct accelerated testing and develop a Toxicity Reduction Evaluation (TRE) Workplan as Special Conditions. These requirements are necessary to ensure that the Permittee has a process for addressing effluent toxicity if toxicity is observed.

B. Effluent Limitations Summary Table**Outfall Number 001**

Parameter	Units	Effluent limitations					
		Averaging period	Highest Reported Value *	Existing limits	Interim limits	Final limits	Basis
BOD5	mg/L	Monthly average	35	30	--	30	WQBEL
		Weekly average	35	30	--	45	TBEL
	Minimum % removal	Monthly average	20 [†]	85	--	85	TBEL
Color	Pt-Co	Daily maximum	30	15	--	15	WQBEL
Dissolved Oxygen	Minimum mg/L	Monthly average	1.1 [†]	Shall not contain less than 5.0	--	Shall not contain less than 5.0	WQBEL
Enterococci	Colonies /100 mL	90-d geometric mean	--	--	365	35	WQBEL
		90 th Percentile	--	--	--	130	
Flow	m ³ /day MGD	Daily maximum	-- 0.007965	14.20 0.00375	--	14.20 0.00375	--
Oil and Grease	mg/L	--	11.6	Free from oils and greases, as well as petroleum oils and greases.	--	Free from oils and greases, as well as petroleum oils and greases.	WQBEL
pH	SU	--	6.8-8.6	6.0-9.0	--	6.0-9.0	WQBEL
Residual Chlorine	µg/L	Daily maximum	500	500	--	11	WQBEL
Solids and Other Matter	--	--	--	Shall not contain floating debris, scum, etc.	--	Shall not contain floating debris, scum, etc.	WQBEL
Sulfides (undissociated H ₂ S)	µg/L	Daily maximum	44.9	2.0	--	2.0	WQBEL
Surfactants as MBAs	µg/L	Daily maximum	371	100	--	100	WQBEL
Suspended, Colloidal and Settleable Solids	mL/L	--	--	Solids shall not cause deposition, etc.	--	Solids shall not cause deposition, etc.	WQBEL
Taste and Odor Producing Substances	--	--	--	Shall not be present in amounts that will interfere with potable water supply, etc.	--	Shall not be present in amounts that will interfere with potable water supply, etc.	WQBEL
Temperature	°F	--	--	90	--	86	WQBEL
	°C		30.0	32.2		30	
Total Ammonia Nitrogen (TAN)	µg/L	Daily maximum	28300	M/R	--	M/R	WQBEL
Total Dissolved Solids	mg/L	Daily maximum	916	500	--	500	WQBEL

Parameter	Units	Effluent limitations					
		Averaging period	Highest Reported Value *	Existing limits	Interim limits	Final limits	Basis
Total Nitrogen (TKN, NO ₂ , NO ₃)	µg/L	Daily maximum	--	--	8000	1,700	WQBEL
Total Phosphorous	µg/L	Daily maximum	--	--	3000	160	WQBEL
Total Suspended Solids	mg/L	Monthly average	21	30	--	30	TBEL
		Weekly average	21	45	--	45	
	Minimum % removal	Monthly average	40 [†]	85	--	85	TBEL
Turbidity	NTU	Daily maximum	36.5	50	--	50	WQBEL
Whole Effluent Toxicity	TUa	Daily maximum	--	--	--	M/R	WQBEL

Notes, Footnotes and Abbreviations

Note: Dashes (--) indicate there are no effluent data, no limitations, or no monitoring requirements for this parameter.

* Wastewater data from DMRs dated November 1, 2014 to October 31, 2019 and February 14, 2012 application.

† Lowest Reported Value

C. Monitoring Requirements

NPDES regulations at 40 CFR 122.48 require that all permits specify requirements for recording and reporting monitoring results. The Part III of the Permit establishes monitoring and reporting requirements to implement federal and state requirements. The following provides the rationale for the monitoring and reporting requirements for this facility.

1. Influent Monitoring Requirements

To calculate percent removal values, influent monitoring is required for BOD₅ and TSS in accordance with 40 CFR 133.102. Influent monitoring must be conducted before any treatment, other than de-gritting, and before any addition of any internal waste stream.

2. Effluent Monitoring Requirements

Effluent monitoring frequency and sample type have been established in accordance with the requirements of 40 CFR 122.44(i) and recommendations in EPA's TSD. Consistent with 40 CFR Part 136 monitoring data for toxic metals must be expressed as total recoverable metal.

A licensed chemist authorized to practice the profession in Puerto Rico shall certify all chemical analyses. All bacteriological tests shall be certified by a microbiologist or licensed medical technologist authorized to practice the profession in Puerto Rico.

The sampling point for Outfall 001 shall be located immediately after the primary flow measuring device of the effluent of the treatment system.

D. Compliance with Federal Anti-Backsliding Requirements and Puerto Rico's Anti-Degradation Policy

Federal regulations at 40 CFR 131.12 require that state water quality standards include an anti-degradation policy consistent with the federal policy. The discharge is consistent with the anti-degradation provision of 40 CFR 131.12, 72 Federal Register 238 (December 12, 2007, pages 70517-70526) and DNER's *Anti-Degradation Policy Implementation Procedure* in Attachment A of PRWQS. In addition, CWA sections 402(o)(2) and 303(d)(4) and federal regulations at 40 CFR 122.44(l) prohibit backsliding in NPDES permits. Further, the Region 2 Anti-backsliding Policy provides guidance regarding relaxation of effluent limitations based on water quality for Puerto Rico NPDES permits. These anti-backsliding provisions require effluent limitations in a reissued permit to be as stringent as those in the previous permit with some exceptions where limitations may be relaxed. The effluent limitations in the permit are at least as stringent as the effluent limitations in the existing permit, except for the pollutants listed below. The effluent limitations for these pollutants are less stringent than those in the existing permit. This relaxation of effluent limitations is consistent with the anti-backsliding requirements of CWA section

401(o), 40 CFR 122.44(l), EPA Region 2's Anti-backsliding Policy dated August 10, 1993, and Puerto Rico's Anti-Degradation Policy Implementation Procedure established in PRWQS.

1. The effluent limitation for BOD5 7-day average is less stringent than that in the existing permit. This relaxation of effluent limitation is consistent with the anti-backsliding requirements of CWA section 401(o), 40 CFR 122.44(l), EPA Region 2's Anti-backsliding Policy dated August 10, 1993, and Puerto Rico's Anti-Degradation Policy Implementation Procedure established in PRWQSR. CWA Section 402(o)(2)(B)(i) allows backsliding if information is available which was not available at the time of permit issuance and would have justified a less stringent effluent limitation at the time of permit issuance. EPA has determined that it is appropriate to relax the effluent limitation for this parameter without violating anti-backsliding provisions of the CWA.
2. The proposed NPDES permit contains water quality-based effluent limitations for Enterococci, Total Nitrogen, and Total Phosphorus which were not included in the previous NPDES permit. Pursuant to Section 401 (d) of the Act and 40 C.F.R. 122.44 (d) and 124.55, all State certified limitations and requirements contained in a Section 401 certification must be incorporated into a NPDES permit issued by EPA. The water quality-based limitations referenced in this paragraph have been included in the draft NPDES permit, based on DNER's WQC.
3. Existing effluent limitations for **Fecal Coliform, Fluoride, Nitrate + Nitrite and Total Coliforms** have been removed based on CWA section 402(o)(2)(B)(l). CWA Section 402(o)(2)(B)(i) authorizes the backsliding of effluent limitations if information is available which was not available at the time of permit issuance that would have justified the application of a less stringent effluent limitation at the time of permit issuance. PR DNER's analysis of the existing effluent data did not indicate reasonable potential or that an effluent limitation is needed to ensure that applicable water quality standards are met in the receiving water. This new information is a sufficient basis to relax these requirements based on the R2 Anti-Backsliding Policy.

PART III. RATIONALE FOR STANDARD AND SPECIAL CONDITIONS

A. Standard Conditions

In accordance with 40 CFR 122.41, standard conditions that apply to all NPDES permits have been incorporated by reference in Part IV.A.1 of the permit and expressly in Attachment B of the permit. The Permittee must comply with all standard conditions and with those additional conditions that are applicable to specified categories of permits under 40 CFR 122.42 and specified in Part IV.A.2 of the Permit.

B. Special Conditions

In accordance with 40 CFR 122.42 and other regulations cited below, special conditions have been incorporated into the permit. This section addresses the justification for special studies, additional monitoring requirements, Best Management Practices, Compliance Schedules, and/or special provisions for POTWs as needed. The special conditions for this facility are as follows:

1. **Special Conditions from the Water Quality Certificate**

In accordance with 40 CFR 124.55, EPA has established Special Conditions from the WQC in the permit that DNER determined were necessary to meet PRWQS. The Special Conditions established in this section are only those conditions from the WQC that have not been established in other parts of the permit.

2. **Best Management Practices (BMP) Plan**

The Permittee is required to develop a BMP Plan in the permit based on 40 CFR 122.44(k).

3. **Compliance Schedules**

The Permittee's effluent data indicate that the facility might not be able to consistently comply with the final effluent limitations for Enterococci, Total Nitrogen and Total Phosphorus; therefore, a schedule of compliance has been authorized in the permit in accordance with 40 CFR 122.47 and Special Condition 19 of the WQC, which includes interim deadlines for progress or reports of progress toward compliance with the conditions of the permit. The compliance schedule for Enterococci, Total Nitrogen and Total Phosphorus is established at 36 months from the effective date of the permit to allow the Permittee sufficient time to achieve compliance with the newly established effluent limitations. This schedule is

provided in consideration of the time it would require for the Permittee to undertake steps needed to modify or install treatment facilities, operations, or other required measures.

4. Other Special Conditions

Biosolids: Pursuant to the authority under Section 309 of the Act, 33 U.S.C. § 1345, EPA promulgated 40 C.F.R. Part 503 – Standards for the Use or Dispose of Sewage Sludge. This part establishes standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge generated during the treatment of domestic sewage in treatment works. This part includes standards for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator. It requires pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site.

The permit requires that solid waste generated due to wastewater treatment system operation be disposed in compliance with the applicable requirements established in 40 CFR Part 257.

PART IV. COMPLIANCE WITH APPLICABLE PROVISIONS OF OTHER FEDERAL LAWS OR EXECUTIVE ORDERS

A. Coastal Zone Management Act

Under 40 CFR 122.49(d), and in accordance with the Coastal Zone Management Act of 1972, as amended, 16 *United States Code* (U.S.C.) 1451 *et seq.* section 307(c) of the act and its implementing regulations (15 CFR Part 930), EPA may not issue an NPDES permit that affects land or water use in the coastal zone until the Permittee certifies that the proposed activity complies with the Coastal Zone Management Program in Puerto Rico, and that the discharge is certified by the Commonwealth of Puerto Rico to be consistent with the Commonwealth's Coastal Zone Management Program. The outfall is not in a coastal area managed by the Commonwealth's Coastal Zone Management Program and, although nearby, EPA has determined it will not affect the coastal area. Therefore, the requirements of 40 CFR 122.49(d) do not apply to this discharge.

B. Endangered Species Act

Under 40 CFR 122.49(c), EPA is required pursuant to section 7 of the Endangered Species Act (ESA), 16 U.S.C. 1531 *et seq.* and its implementing regulations (50 CFR Part 402) to ensure, in consultation with the National Marine Fisheries Service (NMFS) and U.S. Fish and Wildlife Service (USFWS) that the discharge authorized by the permit is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat. EPA has determined that the discharge is not likely to affect species or habitat listed under the ESA.

C. Environmental Justice

EPA has performed an Environmental Justice (EJ) Analysis for the discharge in accordance with Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Population and Low-Income Populations*, and EPA's Plan EJ 2014. EJ is the right to a safe, healthy, productive and sustainable environment for all, where "environment" is considered in its totality to include the ecological, physical, social, political, aesthetic and economic environments. In the NPDES permitting program, the public participation process provides opportunities to address EJ concerns by providing appropriate avenues for public participation, seeking out and facilitating involvement of those potentially affected, and including public notices in more than one language where appropriate. The facility is in an area characterized as a Community of Concern and therefore is subject to the EJ requirements. The EPA is committed to taking all necessary actions to minimize potential adverse effects on the areas surrounding the facility. The EPA will be conducting enhanced public outreach regarding this permit action and considering and responding to all comments received during the public comment period for this permit. A detailed discussion of the EJ analysis is provided in the Administrative Record and will be available for review upon request.

D. National Historic Preservation Act

Under 40 CFR 122.49(b), EPA is required to assess the impact of the discharge authorized by the permit on any properties listed or eligible for listing in the National Register of Historic Places (NRHP) and mitigate any adverse effects when necessary in accordance with the National Historic Preservation Act, 16 U.S.C. 470 *et seq.* EPA's analysis indicates that no soil disturbing or construction-related activities are being authorized by approval of this permit; accordingly, adverse effects to resources on or eligible for inclusion in the NHRP are not anticipated as part of this permitted action.

E. Magnuson-Stevens Fishery Conservation and Management Act

Under 40 CFR 122.49, EPA is required to ensure that the discharge authorized by the permit will not adversely affect Essential Fish Habitat (EFH) as specified in section 305(b)(2) of the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), 16 U.S.C. 1801 *et seq.* Caño Boquilla does not contain EFH.

PART V. PUBLIC PARTICIPATION

The procedures for reaching a final decision on the draft permit are set forth in 40 CFR Part 124 and are described in the public notice for the draft permit, which is published on EPA's website at <https://www.epa.gov/npdes-permits/puerto-rico-npdes-permits>. Included in the public notice are requirements for the submission of comments by a specified date, procedures for requesting a hearing and the nature of the hearing, and other procedures for participation in the final agency decision. EPA will consider and respond in writing to all significant comments received during the public comment period in reaching a final decision on the draft permit. Requests for information or questions regarding the draft permit should be directed to:

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