



United States Environmental Protection Agency, Region 2
 Caribbean Environmental Protection Division
 Multimedia Permits and Compliance Branch

**NPDES Compliance Evaluation Inspection
 Municipal Separate Storm Sewer System**

Permittee

Municipality of Rincón
 P. O. Box 97
 Rincón, Puerto Rico 00677-0097
 Telephone Number: (787) 823-2180

Statute / Regulations

Sections 301(a), 308(b) and 402(p) of the Clean Water Act
 Title 40 of the Code of Federal Regulations (C.F.R.) Part 122.26

NPDES ID Number: PRR040076

Inspection Date: August 28, 2024

Participating Personnel:

U.S. EPA: Sergio Bosques
 Senior Environmental Engineer

Municipality of Rincón: Laudelino Rivera Alicea, P.E.
 City Hall Municipal Consultant/Representative
 Rincón City Hall

**Inspection Report
 Prepared by:**

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**Inspection Report
 Approving Officer:**

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1. INTRODUCTION

This Inspection Report includes the findings and observations concerning the National Pollutant Discharge Elimination System (“NPDES”) Municipal Separate Storm Sewer Systems Inspection (the “Inspection”) conducted on August 28, 2024, by Mr. Sergio Bosques, Senior Environmental Engineer (the “EPA Inspector”). The Inspection was conducted at the request of the Clean Water Act Team Leader of the Multimedia Permits and Compliance Branch under the Caribbean Environmental Protection Division at the Municipality of Rincón (“Permittee” or the “Municipality”).¹ (See Attachment 1 - Photo Log, Photo #1.)

The purpose of the Inspection was to evaluate the Municipality’s compliance with the NPDES General Permit for Discharges from Small Municipal Separate Storm Sewer Systems (“MS4s”) in the Commonwealth of Puerto Rico (“MS4 General Permit”). The Inspection was focused on three of the six Minimum Control Measures (“MCMs”), under the Stormwater Management Program (“SWMP”), named “Public Education and Outreach”, “Public Involvement”, and “Construction Site Stormwater Runoff Control”, which conditions and requirements are found in Parts 2.4.2, 2.4.3, and 2.4.5 of the MS4 General Permit.

Upon showing of credentials to Eng. Rivera Alicea, the Inspection was conducted under the authority of Section 308(b) of the Clean Water Act (“CWA”). The Inspection consisted of an entry meeting to discuss the purpose of the Inspection, a document request to assess records for compliance review, and a closing meeting to discuss preliminary findings.

2. PARTICIPANTS

The following official represented the Municipality during the Inspection:

Eng. Laudelino Rivera Alicea
City Hall Municipal Consultant/Representative
Tel.: 787-381-7142
Email: laudelinor@yahoo.com

3. PERMIT INFORMATION

On November 6, 2006, EPA issued an MS4 General Permit for regulated MS4 entities located in the Commonwealth of Puerto Rico (“2006 MS4 General Permit”). After the expiration of the 2006 MS4 General Permit, EPA issued an MS4 General Permit (“2016 MS4 General Permit”) for regulated MS4 entities located in Puerto Rico on June 13, 2016. The 2016 MS4 General Permit replaced the 2006 MS4 General Permit.

¹ On August 20 and 23, 2024, Inspector Bosques sent emails to Eng. Carlos Colón and Ms. Joselyn Pérez, accordingly, to provide notice of the Inspection. The email included a statement about the date and purpose of the Inspection.

The 2016 MS4 General Permit became effective on July 1, 2016, and expired on June 30, 2021. EPA administratively continued the 2016 MS4 General Permit for those MS4 entities that obtained coverage in accordance with the 40 C.F.R. § 122.6(a)² and Part 1.6 of the MS4 General Permit (Continuation of this Permit). Pursuant to 40 C.F.R. § 122.6(b) and Part 1.6 of the 2016 MS4 General Permit, the general permit remains fully effective and enforceable.

On October 21, 2016, the Municipality submitted a Notice of Intent form (the “2016 NOI”) to EPA seeking coverage under the 2016 MS4 General Permit. EPA granted coverage on April 10, 2017. This authorization required the Municipality to submit a revised SWMP by March 22, 2018.

4. FACILITY DESCRIPTION

The Municipality of Rincón was created under the laws of the Commonwealth of Puerto Rico and is located in the Western region of the island neighboring with the municipalities of Añasco at the South and Aguada at its East. The Municipality owns and operates a Small MS4 and has urban areas, as defined by the Census Bureau.³ The stormwater runoff generated at the urban areas is transported through a system of conveyances consisting of among other appurtenances, storm drains, pipes, ditches, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, and storm drains.

5. ENTRY MEETING

After arriving at City Hall at 1:00 p.m., the Inspection began at 1:20 p.m., with the presentation of my credentials to Eng. Laudelino Rivera Alicea. I explained that the purpose of the Inspection was to evaluate the Municipality’s compliance with the 2016 MS4 General Permit; specifically, the Municipality’s implementation of the SWMP’s Public Education and Outreach MCM, Public Involvement MCM, and Construction Site Stormwater Runoff Control MCM. I also explained the NPDES permitting program and the requirements of the 2016 MS4 General Permit. Then, I proceeded to request documents that the Municipality is required to prepare and keep under the 2016 MS4 General Permit.

Eng. Rivera explained that he was not familiar with the 2016 MS4 General Permit and its requirements. Eng. Rivera stated that after the email notice with EPA’s notification of the Inspection, he requested assistance from Municipal staff, Mr. Samuel Sánchez, Director of Municipal Exterior Operations, to search for information in the Municipality records regarding the 2016 MS4 General Permit, and found that before retiring, the Municipal Project Manager, Engineer Carlos G. Colón Mora, implemented the SWMP, and hired a contractor (i.e., Tetra Tech) to assist with the compliance of the 2016 MS4 General Permit. During the last three (3) years, Eng. Rivera

² See 5 U.S.C. § 558(c).

³ Refer to the Census 2020 Urban Area Reference Map in the following link

<https://www.arcgis.com/home/webmap/viewer.html?url=https%3A%2F%2Ftigerweb.geo.census.gov%2Farcgis%2Frest%2Fservices%2FTIGERweb%2FUrban%2FMapServer&source=sd>

indicated he has been temporarily filling in this position until a new Municipal Project Manager is recruited.

Eng. Rivera excused Mr. Sánchez's unavailability at the Inspection because of medical conditions requiring surgical treatment. He is unaware of the Municipality's implementation of the 2016 MS4 General Permit. It will require more file investigation.

6. DOCUMENTS REVIEW

The Inspector requested records concerning the SWMP, Annual Reports ("ARs") for calendar years 2020 to 2023, the education program that includes goals based on stormwater issues, public involvement activities, and the Municipality's program requiring operators of construction activities to select, install, implement, and maintain stormwater control measures that prevent illicit discharges. Below are the responses provided by the Municipality's Representative:

A. Stormwater Management Program (SWMP) – Section 2.3 of the 2016 MS4 General Permit states that *"A SWMP shall be developed, implemented and enforced..."*.

- The SWMP was not available during the Inspection. The Municipality Consultant and personnel are verifying the documents left by Eng. Carlos G. Colón.
- Through review of EPA records, the Inspector found that the Municipality submitted a SWMP⁴ dated December 3, 2009. In addition, the Municipality has SWMP information posted on a municipal website (<https://rincon.gov.pr/ms4-swmp/>)⁵. However, EPA's notice of coverage letter under the 2016 Small MS4 General Permit required the Municipality to submit a revised SWMP by April 17, 2019. The Municipal Consultant agree to search their records to find whether an updated SWMP had been developed. If not found, a revised SWMP will need to be submitted to EPA.

B. Annual Reports (ARs) – Section 3.0 of the 2016 MS4 General Permit requires that the permittee shall *"conduct a self-evaluation of its compliance with the terms and conditions of the MS4 General Permit and submit an annual report due thirty days after July 1"*.

- I requested the Annual Reports from 2020 to 2023. The Municipality's Consultant did not provide the requested ARs.⁶ The last AR found in EPA's record was for 2018-2019, which was submitted on September 16, 2019.

C. Public Education and Outreach

⁴ On September 5, 2024, EPA Inspector sent an email to Eng. Rivera, including an electronic copy of the SWMP found in EPA's records.

⁵ On September 12, 2024, EPA Inspector shared Rincon's municipal website with SWMP information via email.

⁶ Through a review of EPA's records, EPA Inspector found that the Municipality submitted two (2) AR during the 2016 MS4 General Permit term to EPA. A copy of the 2018-2019 AR was shared via email on September 5, 2024.

1) **Comprehensive Stormwater Education and Outreach Program** - Section 2.4.2.1 of the 2016 MS4 General Permit requires the permittee to *“develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public employees, businesses, and the general public of hazards associated with the illegal discharges and improper disposal of waste and about the impact that stormwater discharges can have on local waterways, as well as the steps that the public can take to reduce pollutants in stormwater.”*

- Since 2020, the Municipality Representative indicated not being aware of the Municipality implementing a comprehensive stormwater education and outreach program. There were restraints caused by the COVID-19 pandemic.

2) **Educational materials** - Section 2.4.2.2 of the 2016 MS4 General Permit requires the permittee to *“throughout the permit term, all permittees shall make the educational materials available to convey the program’s message to the target audience(s) at least annually.”*

- The Municipality Representative indicated he is not aware of the Municipality developing recent educational materials specifically for stormwater related matters. After the hurricanes and the COVID-19 pandemic, restraints limited interaction with the public.

D. Public Involvement

Section 2.4.3.3 of the 2016 MS4 General Permit requires the permittee to *“report on the activities undertaken to provide public participation opportunities which may include, but are not limited to, websites; hotlines; clean-up teams; monitoring teams; or an advisory committee.”*

- Since providing services in the Municipality, the Municipal Representative indicated that the Municipality is inactive with its educational program and public involvement. He is not aware of recent stormwater educational activities and will search the Municipal records on this matter. Eng. Rivera indicated that in Rincón there is an active environmental community.

E. Construction Site Stormwater Runoff Control

Section 2.4.5 of the 2016 MS4 General Permit requires the permittee to *“develop, implement and enforce a program requiring operators of small and large construction activities, to select, install, implement, and maintain stormwater control measures that prevent illicit discharges to the MEP.”*

The 2016 MS4 General Permit requires that the Construction Controls Program includes the following elements:

- a. **Legal Authority** – Section 2.4.5.3 of the 2016 MS4 General Permit requires an *“ordinance or other regulatory mechanism that requires the use of sediments and erosion control practices at construction sites”*.
 - Eng. Rivera stated that he is unaware of the existence of an ordinance specifically for the use of sediments and erosion control practices at construction sites.⁷
 - Eng. Rivera’s tasks include those of the Municipal Project Manager which requires to perform inspections to construction projects in the Municipality.
 - Through review of EPA records, the Inspector found that the Municipality’s Notice of Intent form, submitted on July 28, 2027, states that a Construction/Erosion and Sediment Control Ordinance was adopted on March 30, 2011.

- b. **Construction Site Inventory** – Section 2.4.5.4 of the MS4 General Permit requires to *“maintain an inventory of all permitted active public and private construction sites that result in a total land disturbance of one or more acres or that result in a total land disturbance of less than one acre if part of a larger common plan or development or sale. The permittee shall make this inventory available to the permitting authority upon request”*.
 - The Municipality Representative indicated that there are no active private or public construction projects within the urban area of Rincón. There are several construction projects in rural areas. The Inspector indicated that EPA’s Construction General Permit database lists seven (7) active sites in the Municipality. After reviewing the list, Eng. Rivera confirmed six of projects are in the rural area. The remaining project is a bike and pedestrian trail with construction activity starting at the Rincón Lighthouse (rural area) and working its way near the recreational plaza (urban area) in front of City Hall.

⁷ Through review of EPA records, the Inspector found that the Municipality indicated on its 2016 NOI form that an ordinance for construction/erosion and sediment control was adopted on October 15, 2014.

7. FIELD ACTIVITIES

No field activities (i.e., walkthrough) were performed during the Inspection with the Municipal Official because the Municipality indicated that no active construction projects are presently ongoing in the urban area.

8. CLOSING MEETING

The closing meeting began at 3:45 p.m. and was held at the Municipality's City Hall in the Public Hearings Room. Eng. Rivera represented the Municipality. The EPA Inspector indicated the areas of potential non-compliance with the 2016 MS4 General Permit, including: lack of development, implementation, and enforcement of programs for Public Education and Outreach Program, Public Involvement, and for Construction Site Stormwater Runoff Controls; and lack of implementation of the SWMP. The Municipality representative indicated that they were going to review the files to search for a revised SWMP.

In addition, the EPA Inspector explained that an inspection report will be prepared including findings of the Inspection and will request the Municipality to respond and submit a plan of action, including milestones, to address the findings of the Inspection.

End of Report

ATTACHMENT 1

Photo-log Documentation
Municipality of Rincón
August 28, 2024 Inspection

EPA Camera: Nikon Coolpix P530
Model Series 30077861



Photo #1

Municipality of Rincón City Hall.