



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 Peñuelas
P. O. Box 10
Peñuelas, Puerto Rico 00624
Telephone Number: (787) 836-1136

Statute / Regulations

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

NPDES ID Number: PRR040034

Inspection Date: July 10, 2024

Participating Personnel:

U.S. EPA: Yolianne Maclay, P.E.
Senior Environmental Engineer

Municipality of Peñuelas: Mr. Carlos Echevarría
Public Works Office Director
Tel.: 787-836-1136, ext. 301
Email: cechevarria@peñuelaspr.gov

Ms. Nilsa Ocasio
Public Works Office Clerk

Ms. Sonia Cosme
EDS Environmental Consultant
Tel.: 787-466-1400
Email: soniacosme@edspuertorico.com

Ms. Lorena Rivera
EDS GIS Specialist

Inspection Report
Prepared by:

Yolianne Maclay

Yolianne Maclay, P.E.
Senior Environmental Engineer
Clean Water Act Team
Tel.: (787) 977-5849; Email: maclay.yolianne@epa.gov

August 2, 2024
Date

Inspection Report
Approving Officer:

JOSE RIVERA

José A. Rivera, BSCE
Team Leader
Clean Water Act Team
Multimedia Permits and Compliance Branch
Tel.: (787) 977-5842; Email: rivera.jose@epa.gov

Digitally signed by JOSE
RIVERA
Date: 2024.08.02
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1. INTRODUCTION

This Inspection Report includes the findings and observations concerning the National Pollutant Discharge Elimination System (“NPDES”) Compliance Evaluation Inspection (“Inspection”) conducted by Yolianne Maclay, P.E., Senior Environmental Engineer (“Inspector Maclay”), and Arturo Arzón, Environmental Engineer (“Inspector Arzón”) (collectively, the “EPA Inspectors”), of the United States Environmental Protection Agency (“EPA”), Region 2, Caribbean Environmental Protection Division (“CEPD”), at the Municipality of Peñuelas (“Permittee” or the “Municipality”)¹.

The purpose of the Inspection was to evaluate 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 Permit”). The Inspection was focused on two of the six Minimum Control Measures (“MCMs”) named “Public Education and Outreach” and “Construction Site Stormwater Runoff Control”, which conditions and requirements are found in Parts 2.4.2 and 2.4.5 of the MS4 Permit.

Upon showing of credentials to Ms. Carlos Echevarría, Ms. Sonia Cosme, Ms. Nilsa Ocasio and Ms. Lorena Rivera, the EPA Inspectors conducted the Inspection 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 officials represented the Municipality during the Inspection:

Mr. Carlos Echevarría
Public Works Office Director
Tel.: 787-836-1136, ext. 301
Email: cechevarria@peñuelaspr.gov

Ms. Nilsa Ocasio
Public Works Office Clerk

Ms. Sonia Cosme
EDS Environmental Consultant
Tel.: 787-466-1400
Email: soniacosme@edspuertorico.com

¹ On July 9, 2024, Inspector Maclay sent an email to Mr. Carlos Echevarría to provide notice of the Inspection. The email included a statement about the date and purpose of the Inspection.

Ms. Lorena Rivera
EDS GIS Specialist
lorenarivera@edspuertorico.com

3. PERMIT INFORMATION

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

The 2016 MS4 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 Pursuant to 40 C.F.R. § 122.6(b), the 2016 MS4 Permit remains fully effective and enforceable.

On September 29, 2016, the Municipality submitted a Notice of Intent form (the “2016 NOI”) to EPA seeking coverage under the 2016 MS4 Permit. EPA granted coverage on January 28, 2017.

4. FACILITY DESCRIPTION

The Municipality of Peñuelas was created under the laws of the Commonwealth of Puerto Rico and is located in the south coastal region of the island neighboring with the coastal municipalities of Ponce and Guayanilla. The Municipality owns and operates a Small MS4 and has urbanized areas, as defined by the Census Bureau.³ The stormwater runoff generated at the urbanized 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

The Inspection began at 1:50 p.m., when the EPA Inspectors presented their credentials to Mr. Echevarría, Ms. Cosme, Ms. Rivera, and Ms. Ocasio. Inspector Maclay explained that the purpose of the Inspection was to evaluate Municipality’s compliance with the 2016 MS4 Permit; specifically, Municipality’s implementation of the Public Education and Outreach MCM and Construction Site Stormwater Runoff Control MCM. Inspector Maclay briefly explained the NPDES permitting program and the requirements of the 2016 MS4 Permit. Mr. Echevarría expressed that municipal government is facing resource limitations, hindering the implementation of programs without additional external funding.

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>

Mr. Echevarría explained that the Municipality uses the services of a private consultant firm named EDS to assist in the implementation of the MS4 Permit. Then, EPA Inspectors proceeded to request documents that the Municipality is required to prepare and keep under the 2016 MS4 Permit.

6. DOCUMENTS REVIEW

Inspector Maclay requested records concerning the Stormwater Management Program (SWMP), Annual Reports (ARs) for calendar years 2019 to 2023, education program that includes goals based on stormwater issues, and 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 Municipality's Officials:

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

The SWMP was available during the Inspection. The SWMP was dated June 2018 and signed by the Mayor on June 26, 2018.⁴

- B. Annual Reports (ARs)** – Section 3.0 of the 2016 MS4 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”*.

The Municipality's officials provided the requested ARs. The Municipality submitted to EPA the ARs on the following dates: 6/30/2019, 7/31/2020, 7/22/21, 7/26/2022, and 7/28/2023.

- C. System Mapping** – Section 2.4.4.6 of the 2016 MS4 Permit requires that the permittee shall *“develop a revised and more detailed map than was required by the 2006 Small MS4 General Permit”*.

The Municipality developed an MS4 Map with an application named arcgis.com. Scanning a QR Code in any phone provides access to the MS4 Maps and its elements. Refer to Attachment 1 of this Inspection Report for the QR Code and an example of the MS4 Map. The data to develop the map is collected by field visits and virtual data.

D. Public Education and Outreach

- 1) **Comprehensive Stormwater Education and Outreach Program** - Section 2.4.2.1 of the 2016 MS4 Permit requires the permittee to *“develop, implement, and maintain a comprehensive stormwater education and outreach program to educate public*

⁴ Through review of EPA's records prior to the Inspection, Inspector Maclay found that the Municipality submitted the SWMP to EPA on June 29, 2018.

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.”

The SWMP includes best management practices (BMPs) selected by the Municipality to implement this measure, which includes workshops targeting school children and an Illicit Discharge Detection and Elimination (“IDDE”) Response training.

- 2) **Educational materials** - Section 2.4.2.2 of the 2016 MS4 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’s officials indicated that the Municipality had developed educational materials specifically for stormwater related matters.

Ms. Cosme explained that the Municipality performs a stormwater workshop at a summer camp every summer. The educational material was developed specifically for children addressing stormwater issues. This year the workshop was performed on June 12, 2024. Ms. Cosme showed pictures of the event and the presentation prepared for the children.

The EPA Inspectors were also informed that the Municipality displays posters, distributes brochures, and educates the public about stormwater pollution at the health fairs attended by community residents.

Ms. Cosme also stated that the Municipality has trained its municipal personnel on MS4 and IDDE. An attendance list was shown for the training held on April 23, 2024, at the *“Centro de Convenciones de Peñuelas.”* Two sessions were held, the first one was from 8:30 a.m. to 10:00 a.m. and a total of 33 employees attended; the second session was from 10:30 a.m. to 12:00 noon.

E. Construction Site Stormwater Runoff Control

Section 2.4.5 of the 2016 MS4 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 Permit requires that the Construction Controls Program includes the following elements:

- a. **Legal Authority** – Section 2.4.5.3 of the 2016 MS4 Permit requires an *“ordinance or other regulatory mechanism that requires the use of sediments and erosion control practices at construction sites”*.

The Municipality officials stated that the Municipality does not have an ordinance that specifically addresses the use of sediment and erosion control practices at construction sites. However, Ms. Cosme indicated that the Municipality does have an ordinance that prohibits the discharge of pollutants into its MS4. Ms. Cosme further indicated that since there has not been much construction in the Municipality, issues related to construction sites have not been a priority.

- b. **Requirements for construction operators** - Section 2.4.5.3.b of the 2016 MS4 Permit requires the implementation of *“sediment and erosion control program to the extent allowable by Commonwealth of Puerto Rico and federal law”*.

The SWMP includes the BMPs selected by the Municipality to implement this measure, which include site visits to construction projects, a protocol to inform local government officials regarding illicit discharges, employee training, and a construction site inventory.

- c. **Requirements to control waste** – Section 2.4.5.4.c of the 2016 MS4 Permit requires the implementation of requirements to control waste and prohibit discharges.

The Municipality’s officials indicated that the Municipality had not established requirements for waste control on construction sites. However, they have a program to collect oil for proper disposal.

- d. **Construction Plan Review Procedures** – Section 2.4.5.3.d of the 2016 MS4 Permit requires that *“permittees must maintain and implement site plan review procedures that describe which plans will be reviewed as well as when an operator may begin construction.”*

During the Inspection, the Municipality’s officials did not present any procedures for site plan review.

- e. **Procedures for pre-construction review** – Section 2.4.5.3.e of the 2016 MS4 Permit requires that *“permittees must maintain and implement pre-construction review procedures that describe which environmental requirements for the construction project are applicable, including the environmental permits, as well as to establish the responsible party (e.g., owner, developer, contractor, among others) of the construction project.”*

During the Inspection, the Municipality’s officials did not present any procedures for site plan review. They explained that the Municipality does not participate in the pre-

construction review of a construction project, that a State Office (OGPe) issues the permit for construction, and that the Municipality collects taxes and issues construction project endorsements.

- f. **Construction Site Inspection and Enforcement** - Section 2.4.5.3.f of the 2016 MS4 Permit requires that *“permittees shall implement written procedures for inspecting large and small construction projects for sediment and erosion control measures”*.

The Municipality officials indicated that the Municipality had not developed written procedures for inspecting construction projects. However, in the past, in response to a citizen complaint, they inspected the MS4 receiving the runoff from a construction project. For that particular project, it was indicated that Municipality officials spoke with the project developer and requested measures to control the sediment discharges, and the developer corrected the problem.

- g. **Information submitted by the public** – Section 2.4.5.3.g of the 2016 MS4 Permit requires to develop and implement *“procedures for receipt and consideration of information submitted by the public.”*

The Municipality officials indicated that the Municipality does not have a form specifically for receiving information from the public on construction-related issues. However, they indicated that the Municipality’s Department of Public Works does have a "Request for Services Form" that is used to address public complaints about MS4 cleaning, pick-up debris and vegetative waste, and other related issues.

- h. **Site Plan Review Procedures** – Section 2.4.5.3.h of the MS4 General Permit requires that *“site plan review procedures shall include evaluation of opportunities for use of low impact design and green infrastructure”*.

The Municipality officials indicated that the Municipality has not developed site plan review procedures.

7. FIELD ACTIVITIES

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

8. CLOSING MEETING

The closing meeting began at 2:45 p.m. and was held at the Municipality’s Public Works Office. Ms. Cosme and Mr. Echevarría represented the Municipality. Inspector Maclay indicated the areas of potential non-compliance with the 2016 MS4 Permit includes the lack of development, implementation, and enforcement of the Construction Site Stormwater Runoff Controls MCM. Municipal representatives indicated that their resources for the implementing the SWMP and MS4

Permit are limited and that their efforts have been focused on the creation of MS4 mapping, addressing the IDDE MCM, and public education, among others. Construction projects are very rare in the Municipality, which is why not many resources have been dedicated to them.

In addition, Inspector Maclay 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

Attachment 1
MS4 Map and QR Code

Web Map

- QR Code of the Web Map of Peñuelas's stormwater system (inlets and outfalls)
<https://bit.ly/MS4PENUELAS>



 MS4 Peñuelas

