



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
CARIBBEAN ENVIRONMENTAL PROTECTION DIVISION
CITY VIEW PLAZA II BUILDING, 7TH FLOOR
ROUTE 166 GUAYNABO, PUERTO RICO 00968

June 5, 2023

Via Certified Mail – Return Receipt Requested

Mr. Jorge A. Díaz Mayoral, President
Puerto Rico Asphalt, LLC
P.O. Box 25252
San Juan, Puerto Rico 00926

**Re: Information Request Pursuant to Section 308 of the Clean Water Act
Request for Information ID: CEPD-CWA-02-IR-2023-007**

Dear Mr. Díaz-Mayoral:

The United States Environmental Protection Agency (“EPA” or “Agency”) is charged with the protection of human health and the environment under the Clean Water Act (“CWA” or “Act”), 33 U.S.C. §§ 1261 *et seq.* Section 301(a) of the CWA, 33 U.S.C. § 1311(a), provides in part that except as in compliance with Section 402 of the CWA, 33 U.S.C. § 1342, the discharge of any pollutant by any person shall be unlawful. Please be advised that the CWA and implementing regulations require operators of certain industrial activities to apply for and obtain coverage under a National Pollutant Discharge Elimination System (“NPDES”) permit pursuant to Sections 301(a) and 402(p) of the CWA, 33 U.S.C. § 1311(a) and 1342(p).¹

Based on EPA’s review of EPA’s Central Data Exchange (“CDX”) / NeT database, Puerto Rico Asphalt, LLC (“PRA”) submitted a Notices of Intent and obtained coverage under the 2021 National Pollutant Discharge Elimination System (“NPDES”) Multi-Sector General Permit for Stormwater Discharges from Industrial Activity (“2021 MSGP”) for the asphalt manufacturing facilities listed in **Table 1** (next page):

A. REQUEST FOR INFORMATION

Section 308(a) of the CWA provides that whenever it is necessary to carry out the objectives of the CWA, including determining whether a “person”² is in violation of Section 301 of the CWA, or a permit issued under Section 402 of the CWA, EPA shall require the submission of any information reasonably necessary to make such a determination. Under the authority of Section 308 of the CWA, EPA may require the submission of information necessary to assess the compliance status of any “facility”³ and its related appurtenances.

¹ Refer to 40 C.F.R. § 122.26(b)(14) for the definition of storm water discharges associated with industrial activity.

² The term “person” includes corporations, as defined 40 C.F.R. § 122.2.

³ The term “facility” is defined in 40 C.F.R. § 122.2 and means NPDES “point source” or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the NPDES program.

TABLE 1⁴

Facility Name	NPDES ID	Receiving Water	Date when NOI was signed	2021 MSGP coverage Date granted
Humacao	PRR05J01T	Quebrada Obispo	May 28, 2021	July 27, 2021
Caguas	PRR05J01U	Quebrada Caguitas	May 28, 2021	July 27, 2021
Barranquitas	PRR05J01W	Quebrada Padilla	May 28, 2021	July 27, 2021
Manatí	PRR05J01X	Río Grande de Manatí	May 28, 2021	July 27, 2021
Salinas	PRR05J01Y	Río Niguas	May 28, 2021	July 27, 2021
Carolina Hot Mix Asphalt Plant	PRR053334	Quebrada Blasina	May 28, 2021	July 27, 2021

EPA is hereby requesting information from PRA pursuant to the authority granted under Section 308(a) of the CWA concerning the Site. This information will be used to determine PRA's past and present compliance with Sections 301(a) and 402 of the CWA.

Please review and follow the instructions in *Enclosure 1* (Instructions and Definitions); review the information being requested in *Enclosure 2* and submit the information requested therein; and submit a signed and dated Statement of Certification (*Enclosure 3*), which is to be signed and dated by a PRA authorized officer pursuant to the signatory requirements in 40 C.F.R. § 122.22. This statement certifies that the response submitted to the EPA is complete and contains all documents and information responsive to this Request for Information ("RFI") that are known to you, following a complete and thorough review of all information and sources available to you.

B. ACKNOWLEDGEMENT OF RECEIPT AND DELIVERY OF INFORMATION

Please acknowledge receipt of this letter upon receipt by sending an electronic mail to José A. Rivera at rivera.jose@epa.gov. *EPA requests that PRA submits all the requested information within thirty (30) calendar days of receipt of this letter.*

The electronic delivery of PRA's response to this Request for Information is strongly encouraged. To the extent possible, any documents to be submitted in response to this Request for Information should be in Portable Document Format ("PDF"). The requested information must be sent to the following EPA Region 2 designated official:

⁴ This Request for Information also serves to obtain information to follow-up to a citizen complaint that concerns the Caguas facility.

José A. Rivera, BSCE
Team Leader
Clean Water Act Team
Multimedia Permits and Compliance Branch
Caribbean Environmental Protection Division
U.S. Environmental Protection Agency, Region 2
City View Plaza II - Suite 7000
#48, PR-166, Km 1.2
Guaynabo, Puerto Rico 00968-8069
Email: rivera.jose@epa.gov.

If you are without access to a computer and must submit the response by U.S. mail, PRA should notify Mr. José A. Rivera at (787) 977-6842, or by email at rivera.jose@epa.gov, when it sends a document in such a manner.

Please be advised that PRA is under a continuing obligation to supplement its response if information not known or not available to PRA as of the date of submission of its response should later become known or available to PRA. In this instance, PRA must supplement the response to EPA within ten (10) business days.

If at any time in the future PRA becomes aware of additional information or find that any portion of the submitted information is false, misleading or misrepresents the truth, PRA must notify EPA of this fact immediately and provide a corrected response within ten (10) business days. If any part of the response is found to be untrue, PRA may be subject to criminal prosecution.

C. RESPONSIBILITY TO RESPOND TO THIS REQUEST FOR INFORMATION

Failure to comply in all respects with this Request for Information may result in the initiation of an enforcement action under Section 309 of the Act, 33 U.S.C. §1319, under which injunctive relief and penalties may be sought.

This Request for information is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3601-3620. PRA may, if so desire, assert a business confidentiality claim covering all or part of the information requested by this letter. A business confidentiality claim may be asserted by placing on (or attaching to) the information, at the time it is submitted, a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret” or “proprietary” or “company confidential.” Information covered by such a claim will be disclosed by EPA only in accordance with and by means of procedures set forth in Sub-Part B, 40 C.F.R. Part 2.

If no such claim accompanies the information contained in the response to the Request for Information when it is received by EPA, it may be made available to the public by EPA without further notice to PRA. You should read the above-cited statutory and regulatory provisions carefully before asserting a business confidentiality claim, since certain categories of information are not properly the subject of such a claim. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified. If PRA desires confidential treatment of information only until a certain date or until the occurrence of a certain event, PRA’s response should state so.

EPA encourages you and PRA personnel to become familiar with the Small Business Resource Information Sheet. This Information Sheet provides an array of resources, including workshops, training sessions, hotlines, websites and guides, to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies. The Information Sheet is available at <https://www.epa.gov/sites/default/files/2017-06/documents/smallbusinessinfo.pdf>.

If you have any questions concerning this matter, please contact Mr. José A. Rivera, Team Leader, Clean Water Act Team, at (787) 977-6842, or through email at rivera.jose@epa.gov.

Sincerely,

CARMEN

GUERRERO PEREZ

Digitally signed by CARMEN
GUERRERO PEREZ

Date: 2023.06.05 06:36:56
-04'00'

Carmen R. Guerrero Pérez

Director

Caribbean Environmental Protection Division

Enclosures

cc: Jesús Acosta, PRA (via email with enclosures at jacosta@prasphalt.com)
Mario Pérez, PRA (via email with enclosures at ambiental@prasphalt.com)

ENCLOSURE 1

INSTRUCTIONS

In responding to this Request for Information, please apply the following instructions, definitions, and information:

- a. Please use the RFI ID Number CEPD-CWA-02-IR-2023-007 when referring to this Request for Information.
- b. The signatory should be an officer or agent who is authorized to respond on behalf of PRA pursuant to the National Pollutant Discharge Elimination System (“NPDES”) signatory requirements regulations codified at 40 C.F.R. § 122.22.
- c. A complete separate response must be made to each individual question in this RFI. Identify each answer with the number of the question to which it is addressed and precede each answer with the question to which it is addressed.
- d. Interpret “and” as well as “or” to include within the scope of the question as much information as possible. If two interpretations of a question are possible, use the one that provides more information.
- e. In preparing your response to each question, consult with all present and former employees, agents and/or contractors whom you have reason to believe may be familiar with the matter to which the question pertains, regardless of whether the source is in your immediate possession.
- f. In answering each question, identify all contributing sources of information.
- g. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and phone number and the reasons for your belief.
- h. If anything is deleted from a document produced in response to this Request for Information, state the reason for and the subject matter of the deletion.
- i. For each document produced in response to this Request for Information, indicate on the document or in some other reasonable manner, the number of the question to which it applies. If a document is requested but is not available, state the reason for its unavailability.
- j. For terms referred in this Request for Information, you will find its meaning in Section 602(6) of the Act, 33 U.S.C. § 1362, the NPDES regulations at 40 C.F.R. § 122.2, and the 2015 MSGP and 2021 MSGP, which are found at <https://www.epa.gov/npdes/stormwater-discharges-industrial-activities>.

ENCLOSURE 2

INFORMATION REQUESTED

Officials and Members of the Stormwater Pollution Prevention Team

1. Submit the name, position, electronic mail and telephone number of the PRA officers or agents that meet the signatory requirements in 40 C.F.R. § 122.22 and Part B.11 of the 2021 MSGP for each of the six (6) facilities.
2. Submit the name, electronic mail and telephone number of the on-site manager(s) for each of the six (6) facilities for the last three (3) years.
3. Submit the name, position, electronic mail and telephone number of the employee(s) in the stormwater pollution prevention team for each of the six (6) facilities for the last three (3) years.
4. Submit a copy of the employee training records and attendance sheets for each member of the stormwater pollution prevention team for each of the six (6) facilities for the last three (3) years.

Signs, Outfalls, Sampling Points, and Stormwater Visual Assessment and Monitoring

5. Submit legible photographs depicting the sign or other notice of 2021 MSGP coverage for each of the six (6) facilities.
6. Submit a description (e.g., location, identification) and legible photographs for every storm water discharge outfall at each of the six (6) facilities.
7. Submit a description (e.g., location, identification) and legible photographs for every stormwater discharge sampling location at each of the six (6) facilities.
8. Submit a facility map depicting the location of the stormwater sampling locations for each of the six (6) facilities.
9. Submit the names, position, electronic mail, and telephone number for each PRA employee responsible for performing and documenting quarterly visual assessments of stormwater discharges for each of the six (6) facilities for the last three (3) years.
10. Submit the names, position, electronic mail, and telephone number for each PRA employee responsible for monitoring of stormwater discharges for each of the six (6) facilities for the last three (3) years.
11. Submit a copy of the employee training records, attendance sheets and qualifications for each PRA employee responsible for performing and documenting quarterly visual assessments of stormwater discharges and stormwater monitoring for each of the six (6) facilities for the last three (3) years.
12. Submit any written standard operating procedure, plan and processed for performing and documenting quarterly visual assessments of stormwater discharges and stormwater monitoring for each of the six (6) facilities for the last three (3) years.

ENCLOSURE 2 (contd.)

Rain Gauge and Rain Data Logs

13. Indicate if a rain gauge had been installed for each of the six (6) facilities for the last three (3) years. Indicate the date when each rain gauge was installed and its operational status.
14. Submit a copy of the manufacturers' installation procedures for each rain gauge installed for each of the six (6) facilities.
15. Submit a legible photograph depicting rain gauges installed for each of the six (6) facilities.
16. Submit a copy of the rain data log for each of the six (6) facilities for the last three (3) years.
17. Submit the names, position, electronic mail and telephone number for each PRA employee responsible for reading and recording data for each rain gauges installed for each of the six (6) facilities for the last three (3) years.
18. Submit any written standard operating procedure, plan, and process for reading and recording rain data for each of the six (6) facilities for the last three (3) years.

Storm Water Pollution Prevention Plans (SWPPPs)

19. Submit a copy of the SWPPP, including attachments/appendixes thereto, that was developed prior to filing the NOI under the 2021 MSGP for each of the six (6) facilities.
20. Submit a copy of the current SWPPP, including attachments/appendixes thereto, for each of the six (6) facilities.

Documentation

21. Submit a copy of the routine facility inspection documentation for each of the six (6) facilities for the last three (3) years.
22. Submit a copy of the quarterly visual assessments of stormwater discharges documentation for each of the six (6) facilities for the last three (3) years.
23. Submit copy of the corrective action documentation for each of the six (6) facilities for the last three (3) years.
24. Submit a copy of the laboratory analytical reports, including chain of custody forms, for storm water monitoring⁵ for each of the six (6) facilities for the last three (3) years.
25. Submit a copy of the annual report for each of the six (6) facilities for the last three (3) years.

⁵ Stormwater monitoring includes Benchmark Monitoring; Indicator Monitoring; Effluent Limitations Monitoring; and Impaired Water Monitoring.

STATEMENT OF CERTIFICATION

I certify that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my personal inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001, 1341 and 1606.

(Signature)

(Printed Name)

(Title)

(Date)