



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 AGUAS BUENAS**  
P. O. Box 128  
Aguas Buenas, Puerto Rico 00703  
Telephone Number: (787) 732-8621

**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: PRR040028

Inspection Date: August 20, 2024

**Participating Personnel:**

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

**Municipality of Aguas Buenas:** Gerardo Cardona Dingui  
Planning Office Interim Director

**Inspection Report  
Prepared by:**

**YOLIANNE  
MACLAY** Digitally signed by YOLIANNE  
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**Inspection Report  
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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 (“MS4s”) Inspection (the “Inspection”) conducted on August 20, 2024, by Ms. Yolianne Maclay, P.E., Senior Environmental Engineer (the “EPA Inspector”), of the United States Environmental Protection Agency (“EPA”), Region 2, Caribbean Environmental Protection Division (“CEPD”), at the Municipality of Aguas Buenas (“Permittee” or the “Municipality”).<sup>1</sup>

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 Mr. Gerardo Cardona, 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, and a closing meeting to discuss preliminary findings.

## 2. PARTICIPANTS

The following official represented the Municipality during the Inspection:

Gerardo Camacho Dinguí  
Planning Office Interim Director  
Tel.: 787-732-8621, ext. 2430  
Email: [mgarcia@aguasbuenaspr.net](mailto:mgarcia@aguasbuenaspr.net)

## 3. PERMIT INFORMATION

On November 6, 2006, EPA issued an MS4 Permit for regulated 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 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

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<sup>1</sup> On August 19, 2024, the EPA Inspector had a telephone conversation with Mr. Gerardo Cardona and sent an email to [mgarcia@aguasbuenaspr.net](mailto:mgarcia@aguasbuenaspr.net) to provide notice of the Inspection. The email included a statement of the date and purpose of the Inspection.

coverage in accordance with the 40 C.F.R. § 122.6(a).<sup>2</sup> Pursuant to 40 C.F.R. § 122.6(b), the 2016 MS4 Permit remains fully effective and enforceable.

On September 30, 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 February 21, 2017.

#### **4. FACILITY DESCRIPTION**

The Municipality of Aguas Buenas was created under the laws of the Commonwealth of Puerto Rico and is a neighboring municipality of Guaynabo, Caguas, and Cidra. The Municipality owns and operates a Small MS4 and has urbanized areas, as defined by the Census Bureau<sup>3</sup>. 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 9:30 a.m., with the presentation of credentials to Mr. Gerardo Cardona. The EPA Inspector 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. The EPA Inspector briefly explained the NPDES permitting program and the requirements of the 2016 MS4 Permit. Then, she proceeded to request documents that the Municipality is required to prepare and keep under the 2016 MS4 Permit.

Mr. Cardona stated that the Municipality contracted the services of Eco-Stalia, a private environmental consultant firm approximately from year 2014 to 2017, to assist the Municipality with MS4 permit compliance. Mr. Cardona also indicated that there has been very limited follow-up on the requirements of the MS4 Permit after termination of their contract with Eco-Stalia.

#### **6. DOCUMENTS REVIEW**

The EPA Inspector requested records concerning the Stormwater Management Program (SWMP), Annual Reports 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.

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<sup>2</sup> See 5 U.S.C. § 558(c).

<sup>3</sup> 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>

Below are the responses provided by Mr. Cardona:

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

- The Municipal Official did not provide the SWMP.

**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”*.

Mr. Cardona explained that after the contract with Eco-Stalia ended approximately in 2017, annual reports have not been prepared nor submitted to the EPA.<sup>4</sup>

**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 EPA Inspector inquired about the development of MS4 maps. In response, Mr. Cardona indicates that he is not aware of the development of the MS4; thus, he did not provide any MS4 Maps for review of the Inspection.<sup>5</sup>

**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 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.”*

Mr. Cardona indicated that the Municipality had not developed a comprehensive stormwater education and outreach program.

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.”*

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<sup>4</sup> Through a review of EPA records, the EPA Inspector found that the Municipality had not submitted any ARs to EPA from 2017 to the present.

<sup>5</sup> Through review of EPA records, the EPA Inspector found that the Municipality indicated in their 2016 NOI form that a 100% of the MS4 Map required under the 2006 MS4 Permit had been completed.

Mr. Cardona indicated that the Municipality had not developed educational materials specifically for stormwater related matters.

#### **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*”.

Mr. Cardona stated that he is not aware of the existence of such ordinance.<sup>6</sup>

- 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*”.

Mr. Cardona indicated that the Municipality had not developed a Sediment and Erosion Controls Program.

- 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.

Mr. Cardona indicated that the Municipality had not established requirements for waste control on construction sites.

- 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.*”.

Mr. Cardona indicated that the Municipality had not established procedures for site plan review. He also indicated that the Municipality does not have the authority to intervene in the plan review process.

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<sup>6</sup> Through review of EPA records, EPA Inspector found that the Municipality reported in the 2016 NOI that an ordinance has not been adopted.

- 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.”*

Mr. Cardona indicated that the Municipality had not established procedures for site plan review. He also indicated that the Municipality does not have the authority to intervene in the plan review process.

- 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”*.

Mr. Cardona indicated that the Municipality had not developed written procedures for inspecting construction projects.

- 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.”*

Mr. Cardona indicated that a citizen could file a complaint by visiting the Municipal Planning Office or by making a phone call, where a municipal employee will take the information and enter into a platform with proper documentation, and then the Municipality will refer the complaint to the appropriate State agency.

- 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”*.

Mr. Cardona indicated that the Municipality has not developed procedures for reviewing site plans. He also indicated that the Municipality does not have the authority to intervene in such process.

## 7. FIELD ACTIVITIES

The EPA Inspector did not perform any field activities (i.e., walkthrough) during the Inspection because Mr. Cardona indicated that no active construction projects are presently ongoing.

## **8. CLOSING MEETING**

The closing meeting began at 10:15 a.m. and was held at the Municipality's Planning Office with Mr. Cardona. The EPA Inspector indicated the areas of potential non-compliance including the lack of development, implementation, and enforcement of programs for Public Education and Outreach Program and a Construction Site Stormwater Runoff Control.

In addition, the EPA Inspector explained that a report will be prepared with the findings and observations 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**