

***“Organic Act of the Department of Natural and Environmental Resources”***

Act No. 23 of June 20, 1972 as amended,

(Contains amendments incorporated by:

Act No. 5 of July, 14, 1973

Act No. 12 of April 1, 1980

Act No. 31 of September 29, 1983

Act No. 103 of June 30, 1998

Act No. 31 of January 14, 2000

Act No. 163 of June 24, 2004

Act No. 12 of January 20, 2006

Act No. 26 of January 23, 2006

Act No. 68 of July 13, 2007)

To create a Department of Natural Resources, to establish its organization, powers and duties, to transfer functions, fix penalties and to appropriate funds for its operation and to provide that the Secretary of Natural Resources be a member of the Environmental Quality Board.

STATEMENT OF MOTIVES

The complexity shown by the economic and social processes of Puerto Rico in its interrelations with the world of natural resources presents challenges of great magnitude for all our citizens. The magnitude of demographic, economic and geographic forces which assemble in Puerto Rico tend to accelerate the environmental deterioration and exercise great pressures on the conservation of natural resources and submit the existing governmental structures to serious claims for rapid and effective solutions of such acute problems.

Due to the present structuration of the public organizations which deal with said problems, such claims extend generally beyond the powers and faculties of the existing agencies, or as happens in numerous occasions, the dispersion of operational functions in multiple agencies dilutes the governmental effort and the solution becomes slow or unattainable.

The above-stated facts require that it be developed, as a complement to the function of making the public policy on natural resources and the environment of the Board on Environmental Quality of Puerto Rico, an effective centralization of the operational functions and the implementation of bylaws which are at present discharged by multiple governmental organizations with the result of a duplication of work and a loss of effort and money.

*Be it enacted by the Legislature of Puerto Rico :*

**Section 1. — [Short Title]** (3 L.P.R.A. § 151)

This Act shall be known as the "Organic Act of the Department of Natural and Environmental Resources".

**Section 2. — [Creation]** (3 L.P.R.A. § 152)

There is hereby created as a government executive department a Department of Natural and Environmental Resources.

**Section 3. — [Responsibility]** (3 L.P.R.A. § 153)

The Department of Natural and Environmental Resources shall be responsible for implementing, with respect to the operational phase, the public policy of the Commonwealth of Puerto Rico contained in Section 19 of Art. VI of the Constitution by the Board on Environmental Quality in accordance with Act No. 9 of June 18, 1970, as amended [Note: Actual Act . To such effects it shall place in force programs for the use and conservation of the natural resources of Puerto Rico, always within the standards established by the Board on Environmental Quality.

**Section 4. — [Direction and supervision].** (3 L.P.R.A. § 154)

The Department of Natural and Environmental Resources shall be under the direction and supervision of a Secretary of Natural and Environmental Resources who shall be appointed by the Governor in accordance with Section 5 of Article IV of the Constitution of the Commonwealth.

**Section 5. — [Functions and duties of the Secretary]** (3 L.P.R.A. § 155)

The Secretary of Natural and Environmental Resources shall have, in addition to those transferred by this Act, the following functions and duties:

- (a) To advise and make recommendations to the Governor, to the Legislature and to other organizations of the government with respect to the implementation of the public policy on natural resources.
- (b) To establish the internal organization of the Department, and to appoint in accordance with the applicable laws, the necessary personnel for its operation.
- (c) To appoint a subsecretary who shall fulfill the functions that the Secretary may assign to him and who shall substitute for him in case of a provisional vacancy.
- (d) To adopt, amend and repeal regulations to carry out the objectives of this Act, in accordance with Act No. 112 of June 30, 1957 as amended.
- (e) Execute the agreements necessary and convenient in order to achieve the objectives of the Department and its programs, with bodies from the government of the United States of America, with state governments, with other departments, agencies or instrumentalities of the Government of the Commonwealth, its municipalities and with private institutions; [he/she] is also thus empowered to accept and receive any donations or funds on account of

appropriations, advances or any other kind of assistance or benefit when these originate from said government bodies or from nonprofit institutions.

(f) To appoint those commissions, boards and committees that he may deem necessary for the better attainment of the goals of this Act, as well as to collaborate with any entities related with the goals and purposes of the Department, offering therefor the secretarial services or technical assistance that they may need. In the appointment of these commissions, boards, and committees the Secretary shall give careful attention so that there be encouraged and offered ample opportunity for the participation of the citizens.

(g) To establish through regulations to such effects, the fees paid for permits for the sinking of wells for the pumping of subterranean waters in public and private lands in accordance with the faculties transferred by subsection (h) of Section 6 of this Act, to control the use and extraction of subterranean waters, to fix its extraction rhythm and to establish the fees to be paid for the subterranean waters to be extracted from the wells in public or private lands.

(h) To exercise surveillance and see to the conservation of territorial waters, submerged lands thereunder and the maritime-terrestrial zone, to grant franchises, permits and licenses of public nature for its use and exploitation and to establish through regulations the fees to be paid by same. To such effects he shall be empowered to exercise such powers and faculties that may be delegated by any agency or instrumentality of the federal government under any act of the Congress of the United States.

(i) To take all the necessary measures for the conservation, preservation, distribution, management, introduction, propagation, and restoration of terrestrial as well as aquatic resident, migratory, and exotic wildlife, animal, and plant species in the Commonwealth of Puerto Rico; Providing, That the designation of sanctuaries is excluded from the above.

The possession, transportation, sale or importation of by-products from vulnerable or endangered species, as identified by the Secretary in the Regulations for Management of Vulnerable and Endangered Species in the Commonwealth of Puerto Rico and by the U.S. Fish and Wildlife Service, is hereby prohibited.

(j) To carry out investigations in order to obtain information about the population, distribution, habitat needs, limiting factors and other biological and ecological data to determine the conservation measures needed for the support and survival of the wildlife, animal and plant species mentioned in subsection (i) of this section.

(k) To acquire, through purchase, donation, transfer, or any other lawful means, appropriate land and aquatic habitats for the species indicated in subsection (i) of this section.

(l) Faculty to adopt regulations in order to designate, improve and preserve the terrestrial as well as aquatic wildlife, animal and plant species, that are threatened or endangered in the Commonwealth of Puerto Rico; expressly provided the right of the citizens to take part in the process of public hearings that must be conducted to such effects.

(m) Faculty to establish, construct, develop, operate and maintain recreational areas, structures and facilities on the land under his custody and administration; and to fix the fees and rates to be charged for these services. This will be done with the approval of the Secretary of Sports and Recreation. The income derived from these activities shall be deposited in a Special Fund to be used for the maintenance and operation of these areas.

(n) To fix and collect, through regulations to these effects, the corresponding fees for copies of publications, studies, reports, maps, plans, photographs and any other document of a public nature that are requested of him. The income derived from this service shall be

covered into a Special Fund within the Department. However, the Secretary, or the person upon whom he delegates this faculty, shall provide free copies to the Legislative, Judicial and Executive Branches, as well as to the municipal governments, and, at his discretion, to the persons or entities that he considers convenient.

(o) Faculty to regulate the recreational and sports use of cross-country motor vehicles (C.C.V.) such as: automobiles, motorcycles, four-wheel traction vehicles and "dune buggies", on public land. These regulations shall be drafted and adopted in conjunction with the Department of Transportation and Public Works, and the Secretary of Sports and Recreation. The Secretary of the Department of Natural and Environmental Resources, in conjunction with the C.C.V. Federations and Associations of Puerto Rico, shall designate specific areas for the recreational and sports use of cross-country motor vehicles. The income derived as a result of these regulations shall be deposited in a Special Fund designated to the maintenance and operation of the activities and management programs that are thus established.

(p) The [power] to regulate the protection, management, and conservation of the wetlands of Puerto Rico.

(q) Shall be empowered to regulate the procedure to be followed, and the form and manner in which the Department shall periodically inform the complainant citizen before the Rangers Corps of those determinations or decisions made by the Department with respect to a violation of its act, regulations or administrative order informed by him/her. The Department shall keep the complainant-citizen informed regularly of the status of the complaint, in periods that shall not exceed forty-five (45) days after initiating action on the same. Nothing of the herein provided shall require the Department to disclose internal or confidential information, or that is protected by a privilege established by law. In no case shall it be construed that the failure to comply with this requirement shall affect the authority of the Department to proceed with the complaint as is corresponding.

(r) To establish, organize or approve courses and workshops on the use and conservation of the natural resources of the Commonwealth of Puerto Rico, which may be taken by those persons who have been found responsible for violating environmental laws or regulations.

**Section 6. — [Transfers] (3 L.P.R.A. § 156)**

The following functions, faculties and duties at present assigned by law to other agencies of the Commonwealth are hereby transferred to the Department of Natural and Environmental Resources for their execution by the Secretary:

(a) The powers and functions of the Mining Commission and of its Executive Secretary conferred by the Puerto Rico Mining Law, Act No. 6 of October 6, 1954, and the Mining Commission and the office of Executive Secretary are hereby abolished.

(b) The powers and functions of the Secretary of Transportation and Public Works conferred by Act No. 158 of June 28, 1968, and the office of Assistant Secretary [in charge] of Natural Resources is hereby abolished.

(c) The powers, faculties, functions and activities of the Secretary of Transportation and Public Works on flood prevention and conservation of rivers and beaches conferred by Act No.6 of February 29, 1968, [12 L.P.R.A. §§ 225--225b] and on the extraction of materials from the earth's crust conferred by Act No. 132 of June 25, 1968 [28 L.P.R.A. §§ 206--222].

(d) The powers, functions and activities of the Public Service Commission related with the granting of franchise for the use of public waters and the enforcement of the Law of Waters and the responsibility of the police of waters and all the functions with regard to said faculties and responsibilities.

(e) The functions and activities related with geological and mineralogical surveys in charge of the Industrial Research Department of the Economic Development Administration.

(f) The powers and functions of the Secretary of Agriculture conferred by the "Game Act", Number 374, May 11, 1950; "Fisheries Act", Act No. 83 of May 13, 1936; "Forest Law", Number 22, Nov. 22, 1917; the powers and functions with respect to forest lands and hatcheries of Acts Number 19, May 28, 1925; Number 38, April 25, 1930; Number 39, April 25, 1930; Number 307, April 13, 1946; Number 149, May 9, 1945 and number 46 of June 18, 1965, [12 L.P.R.A. § 261]; for the protection of hydrographical basins and flood control of Act number 28 of May, 14, 1964 and Joint Resolution number 4 of April 20, 1967.

(g) The powers and functions of the Board on Environmental Quality with respect to the sinking of wells for the pumping of subterranean waters conferred by Section 11, subsection (23) of the Public Policy Environmental Act, number 9 of June 18, 1970.

(h) The records and the property used in connection with the functions or activities transferred by this Act, the personnel employed at present in these functions or activities, the budgetary appropriations and other resources available to be used in connection with said functions or activities.

**Section 7. — [Effectiveness of other provisions] (3 L.P.R.A. § 157)**

Except the modifications that may be necessary to adjust the agencies and programs transferred by this Act to the departmental structure, the laws governing such agencies and programs shall continue in force, except those provisions that might be in conflict herewith, are hereby repealed.

**Section 8. — [Penalties; administrative hearings] (3 L.P.R.A. § 158)**

(a) Any violation of this Act or of the regulations promulgated hereunder shall constitute a misdemeanor and upon conviction the accused shall be punished with a fine of not less than fifty dollars (\$50), nor more than five hundred dollars (\$500), or imprisonment for a term of not less than five (5) days nor more than ninety (90) days, or both penalties, at the discretion of the court.

(b) The Secretary of the Department of Natural and Environmental Resources is hereby empowered to impose administrative fines for damages caused to wildlife, animal and plant species, or for violations of any of the provisions of this Act or the regulations and measures adopted by the Secretary thereunder, after an administrative hearing has been held. The Secretary of the Department of Natural and Environmental Resources shall fix, through regulations to such effect, the amounts that shall be paid as administrative fines for each illegal act committed in violation of the provisions of this section. The administrative fines shall not exceed five thousand dollars (\$5,000) for each illegal act committed. Each violation of this Act or its regulations shall be considered as a separate violation and shall be subject to an administrative fine of up to the previously established maximum, as well as to the

additional penalty of taking courses or workshops on the use and conservation of the natural resources of the Commonwealth of Puerto Rico that have been approved by the Secretary of Natural and Environmental Resources.

(c) In the event of subsequent violations to this section, the Secretary of Natural and Environmental Resources, in the exercise of his discretion, may impose an additional administrative fine, up to a maximum of ten thousand dollars (\$10,000).

(d) The Secretary of Natural and Environmental Resources shall determine the date, time and place that the administrative hearing, referred to in subsection (b) of this section, shall be held; and shall notify the interested party thereof by certified mail, with return receipt requested, to his last known address. The interested party may appear at said hearing *motu proprio* or represented by a lawyer. To the effects of the administrative hearing authorized herein, the Secretary of Natural and Environmental Resources may order the appearance and testimony of witnesses, the introduction of all evidence that he considers pertinent, and the administering of oaths and the admission of testimony. When a summons of the Secretary is disobeyed, he may go before the court for a judicial order requiring compliance with the summons to be issued. Any disobedience of the court order may be punished as contempt by the court. The Secretary shall issue a resolution within thirty (30) days following the holding of the hearing, and notice to the interested party to his last known address. The Secretary shall include in his resolution a description of the illegal act, or acts, for the commission of which an administrative fine is imposed. The party affected by the Secretary's decision may request, in writing, a reconsideration of the same within ten (10) days following the date of notice of the decision. This request for reconsideration shall be resolved by the Secretary within fifteen (15) days following the date of notice thereof. The party affected by a reconsidered decision may file an appeal for review before the Court of First Instance, within ten (10) days after date of notice of such decision. Once the appeal is filed the petitioner must notify the Secretary thereof within a term of five (5) days counting from its filing.

The Secretary shall take to court, within the term fixed by it, a certified copy of the complete record of the administrative procedure. The request for reconsideration or the intervention of an appeal referred to in this subsection will not stay the effects of the Secretary's order or resolution.

**Section 9. — [Appropriations]** (3 L.P.R.A. § 159)

The sum of one million dollars (\$1,000,000) is hereby appropriated from unencumbered funds in the Commonwealth Treasury to the Department of Natural and Environmental Resources for the fulfillment of the functions established herein during fiscal year 1972-73. The funds necessary for subsequent years shall be set aside in the General Budget.

**Section 10. — [Committee for Negotiations of Mining Affairs]** (3 L.P.R.A. § 160)

There is hereby created in the Department of Natural and Environmental Resources a Committee for Negotiations of Mining Affairs which shall be composed of seven members appointed by the Governor representing the Planning Board, the Department of Justice, Health, Treasury, Agriculture, Transportation and Public Works and a private citizen. The

Committee shall advise the Secretary of Natural and Environmental Resources in the negotiations and covenants as to the terms and conditions of mine leases.

**Section 11. — [Secretary, member of Board on Environmental Quality] (3 L.P.R.A. § 161)**

In accordance with the purposes of this Act the Secretary of Natural and Environmental Resources shall be another member in addition to the present members of the Board on Environmental Quality.

**Section 12. — [Implementation of programs] (3 L.P.R.A. § 162)**

All programs administered by the Department of Natural and Environmental Resources and the faculties herein conferred to its Secretary shall be implemented in accordance with the established environmental public policy.

**Section 13. — [Study Committee] (3 L.P.R.A. § 163)**

There is hereby directed the creation of a committee composed by the Board on Environmental Quality, the Secretary of Justice and an additional number of members appointed by the Governor until completing eleven (11) so that from the date of the effectiveness of this act it may carry out a study in which there shall be determined the functions and programs of the Commonwealth of Puerto Rico which shall be transferred to the Department of Natural and Environmental Resources by reason of their close relations with the operational phase of the problems or of the environmental affairs which shall fall under the jurisdiction of the Department of Natural and Environmental Resources.

The Governor is hereby empowered to transfer to the Department of Natural and Environmental Resources, by Executive Order, any offices, functions and programs of the Government of the Commonwealth, as well as its personnel, properties, archives and budgetary funds which in accordance with the recommendations issued by the Committee created herein, shall continue their functions under the Department of Natural and Environmental Resources by reason of administering programs related with the problems or environmental affairs or otherwise provide for the development and environmental welfare. The Governor shall send a copy of every executive order providing for one or more of such transfers to the Legislature for its information in the regular or special session nearest to the date in which the order is issued.

No program, board, office, dependency or organization created by law may be transferred through executive order to the Department of Natural and Environmental Resources.

**Section 14. — This Act shall take effect January 2, 1973.**

**Note. This compilation was prepared by the Puerto Rico OMB staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text. Compiled by the Office of Management and Budget Library.**