



*The Commonwealth of Puerto Rico
Department of State
San Juan, Puerto Rico*

December 1, 2010

Atty. Pedro J. Nieves Miranda
President
Environmental Quality Board
P.O. BOX 11488
San Juan, Puerto Rico, 00910

Dear Mr. Nieves:

It pleases us to inform you that on **November 30, 2010**, the following regulation was filed in this Department, in accordance with the provisions of Law No. 170 of August 12, 1988, as amended:

Number: **7948** **Regulation for the Evaluation and Processing of
Environmental Documents.**

In accordance with Law 149 of December 12, 2005, the Department of State shall file a copy in the Legislative Library. A copy of the numbered regulation is included.

Cordially,
[Signature: Illegible]
Eduardo Arosemena Muñoz
Assistant Secretary, Services

Enclosed

EAM/et



ENVIRONMENTAL QUALITY BOARD
OFFICE OF THE GOVERNOR
GOVERNMENT OF PUERTO RICO

DEPARTMENT OF STATE

Number: 7948

Date: November 30, 2010

Approved: Hon. Kenneth D. McClintock

Secretary of State

[Signature: Illegible]

By: Eduardo Arosemena Muñoz

Assistant Secretary, Services

Regulation for the Evaluation and Processing of Environmental Documents Environmental Quality Board



ACRONYMS

1. WSA- WATER AND SEWER AUTHORITY
2. EAA- ENERGY AFFAIRS ADMINISTRATION
3. RTA- ROADS AND TRANSPORTATION AUTHORITY
4. ESIA- EQUESTRIAN SPORTS INDUSTRY ADMINISTRATION
5. SWA- SOLID WASTE AUTHORITY
6. PREPA- PUERTO RICO ELECTRIC POWER AUTHORITY
7. PA- PORTS AUTHORITY
8. FC- FIRE CORPS
9. CEC- COMMERCE AND EXPORTS COMPANY
10. IDC- INDUSTRIAL DEVELOPMENT COMPANY
11. PSC- PUBLIC SERVICE COMMISSION
12. TC- TOURISM COMPANY
13. DA- DEPARTMENT OF AGRICULTURE
14. DE- DEPARTMENT OF EDUCATION
15. ECAD- ENVIRONMENTAL COMPLIANCE ASSESSMENT DIVISION
16. EIS- ENVIRONMENTAL IMPACT STATEMENT
17. FONEI- FINDING OF NO ENVIRONMENTAL IMPACT
18. DSR- DEPARTMENT OF SPORTS AND RECREATION
19. DNER- DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES
20. DTPW- DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS
21. DH- DEPARTMENT OF HEALTH
22. DH- DEPARTMENT OF HOUSING
23. EA- ENVIRONMENTAL ASSESSMENT
24. EPA- ENVIRONMENTAL PROTECTION AGENCY
25. PRIC- PUERTO RICAN INSTITUTE OF CULTURE
26. EQB- ENVIRONMENTAL QUALITY BOARD
27. PB- PLANNING BOARD
28. TRB- TELECOMMUNICATIONS REGULATION BOARD
29. SHPO- STATE HISTORIC PRESERVATION OFFICE
30. PMO- PERMITS MANAGEMENT OFFICE
31. PRP- Puerto Rico POLICE
32. NEPA- NATIONAL ENVIRONMENTAL POLICY ACT

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CHAPTER I GENERAL PROVISIONS

Rule 100: Title

These Rules shall be known as the “Environmental Quality Board’s Regulation for the Evaluation and Processing of Environmental Documents.”

Rule 101: Legal Basis

This Regulation is enacted according to the authority granted to the Environmental Quality Board by the Puerto Rico Law for the Reform of the Permit Process, Law No. 161 of December 1, 2009, as amended; and in accordance with Law No. 416 of September 22, 2004, 12 L.P.R.A. §8001 et seq., as amended, known as the Environmental Public Policy Law; in accordance with Standardized Administrative Procedures Law, Law No. 170 of August 12, 1988, as amended. This Regulation revokes the Environmental Quality Board’s Regulation for the Process of Filing, Evaluation and Processing of Environmental Documents, Regulation No. 6510 of August 22, 2002.

Rule 102: Purpose

Before the Proposing Agency reaches a final decision regarding a proposed action, it shall comply with the process of environmental planning and issue an environmental document, either establishing that the actions involved will have an environmental impact or that they will not have such an impact. Likewise, when the actions have been previously evaluated as a Categorical Exclusion, the determination of environmental compliance may be automatically granted. This regulation has the purpose of establishing an agile environmental planning procedure so that Government Agencies in Puerto Rico, prior to proposing legislation, taking any action or enacting any government decision, obtain, consider, evaluate and analyze all of the information that is necessary to ensure that the short and long term environmental impact is taken into account, so that the decisions regarding such impacts or their effects upon the environment are made in an informed manner. This planning tool serves as a frame of reference upon which informed decisions may be taken and to guarantee compliance with Puerto Rico’s Environmental Public Policy. It shall be the Government of Puerto Rico’s public policy to use all practical means and measures to encourage and promote the general welfare, to improve and coordinate the plans, functions, programs and resources of the Government of Puerto Rico and to create and maintain the conditions under which human beings and nature can coexist in productive harmony with other essential public policy considerations.

Rule 103: Environmental document evaluation

The Permits Management Office (PMO) participates in this environmental planning process through the Environmental Compliance Assessment Division (ECAD), by evaluating the environmental document that was submitted, through a process of investigation and analysis which may include comments and/or recommendations that other pertinent government agencies with relevance, expertise and/or jurisdiction in the matter may have regarding the same, and the community, when applicable. According to the information, recommendations and input received, an attempt is made to guarantee that the decision that will eventually be taken is based upon the most complete and correct information available at the time when the action is being planned.

Rule 104: Determination of environmental compliance

The PMO's Environmental Compliance Assessment Division, based upon its evaluation and, in accordance with all of the information obtained, shall issue its recommendations regarding the environmental document to the PMO's Executive Director or to the Adjudications Board, when applicable. The environmental compliance that an environmental document requires under Article 4(B) (3) of the Environmental Public Policy Law, *supra*, and this Regulation, shall be determined by the PMO's Executive Director or the Adjudications Board, when applicable. In case that environmental compliance is determined by Categorical Exclusion, such may be carried out by an Authorized Professional or by the PMO's Executive Director.

In cases where the request for a determination of environmental compliance before the PMO is not related to the permits issued by the same under its provisions or under any other action covered by the Law, the PMO's determination in this matter shall not be final, and becomes a component of the final determination that shall be issued by the department, agency, municipality, corporation or public instrumentality of the Government or Puerto Rico or political subdivision, when applicable, regarding the proposed action and may be reviewed together with the final determination.

This submittal or determination shall be informal and not contentious and its conclusions shall not entail adjudicative determinations, and therefore, it may not be submitted to a review procedure as established by the Standardized Administrative Procedures Law, *supra*.

In those cases where the Environmental Quality Board (EQB) is the only agency with jurisdiction over the proposed action, a determination of environmental compliance by ECAD shall not be necessary.

Rule 105: Conformity with the Environmental Public Policy Law

This Regulation is established in accordance with the purposes established in Article 4(B) (3) of the Environmental Public Policy Law, *supra*, so that its implementation is in strict compliance with the same.

Rule 106: Applicability

The provisions contained in this Regulation apply to all Departments, Agencies, Municipalities, Corporations, Public Instrumentalities of the Government of Puerto Rico and its political subdivisions, and to any person, natural or legal, group or private entity responsible for any of the actions controlled herein. The administration and evaluation of environmental documents and categorical exclusions, as well as the subsequent determination of environmental compliance shall be carried out by the PMO, the Authorized Professional or the EQB, when applicable. Therefore, with regard to any action that requires compliance with the Environmental Public Policy stated in Article 4(b) (3) of Law No. 416, *supra*, and according to the authority granted by Law No. 161, *supra*, the PMO or the EQB, when applicable, shall be the agencies responsible for granting a determination of environmental compliance.

Provided that no changes to actions or installations that existed prior to the effectiveness of Law No. 9 of June 18, 1970, revoked by Law No. 416, *supra*, or to those that under previous regulatory provisions showed compliance with Article 4(B) of the Environmental Public Policy Law, are incorporated in an attempt to renew or extend any of the concessions or permits that were granted for said action or installation, the environmental impact that said action or installation has on the environment shall not require evaluation. Thus establishing that, any modification or broadening of an existing action requires an evaluation of the impact that said action will have on the environment.

All of the actions that were submitted prior to this Regulation becoming effective shall be transferred and evaluated in accordance with Law No. 161, *supra*.

Rule 107: Interpretation

In order to ensure the effective implementation of the public policy contained in Law No. 161, *supra*, the provisions contained in this Regulation shall be interpreted in the broadest and most liberal sense possible. The words and phrases used throughout this Regulation shall be interpreted according to the context in which they are used, and shall have the meaning recognized in common, ordinary use. Any word that is used in singular shall be understood to include the plural when such is justified by its use; and likewise, the

masculine shall include the feminine or vice versa.

Rule 108: Term of enforcement

This Regulation shall go in effect on or before December first (1st), 2010, or until the start of operations of the Permits Management Office, the Review Board and the Office of the Inspector General for Permits, whichever comes first.

CHAPTER II DEFINITIONS

Rule 109: Definitions

As they are used in this Regulation, the following words or phrases shall have the meaning herein described. Any term applied to the contents of this Regulation which is not defined herein, is subject to the definition contained in Law No. 161, *supra*:

A. ACTION – An activity for which a government permit or authorization will eventually be required or any legislative proposal and/or government decision that could have an impact on the environment.

B. REMEDIAL ACTION – A corrective action that includes one or several proposals to mitigate or eliminate the damages that may be caused to the environment or that represent an imminent risk to human health. Said actions may include the replacement of control equipment for another with higher efficiency which does not entail an increase in emissions.

C. CONSULTED AGENCY – The government agency that, because of their involvement or expertise, is asked by the PMO to provide recommendations regarding a submitted environmental document.

D. ENVIRONMENTAL PROTECTION AGENCY (EPA) – A Government Agency of the United States of America charged with protecting the environment and created under Reorganization Plan No. 3 of 1970 (Code of Federal Regulations, Title 40, Part I.)

E. PROPOSING AGENCY – The PMO or any other agency, entity, instrumentality, department or Autonomous Municipality with jurisdiction over the action to be undertaken, as established in this Regulation.

F. ENVIRONMENT – The sum of the factors, forces or physical, chemical, biological and social or cultural conditions that affect or have an influence over the living conditions of human beings and nature.

G. CATEGORICAL EXCLUSION CERTIFICATION – A written statement, presented before the PMO or before an Authorized Professional as part of an application for a final determination or permit, certifying that the proposed action, in the normal course of its execution, shall have no environmental impact and/or that it has been expressly excluded from the environmental planning process by means

of a Law, Regulation or Resolution.

H. PROJECT STARTUP – For the purposes of this Regulation, this shall be the start of the proposed action; the undertaking is considered to have begun once its construction phase has started.

I. ENVIRONMENTAL IMPACT STATEMENT OR EIS – The environmental document and its addenda that is brought before the PMO, who shall refer said document to the ECAD in order to comply with the requirements of Article 4(B) (3) of the Environmental Public Policy Law, *supra*, when it has been determined that the proposed action will have a significant impact on the environment.

J. DETERMINATION OF ENVIRONMENTAL COMPLIANCE – Every determination made by the Executive Director of the PMO and/or the Adjudications Board, that certifies that the Proposing Agency has complied with the substantive and procedural requirements of Article 4(B) (3) of the Environmental Public Policy Law, *supra*, and with applicable Regulations. In the case of Categorical Exclusions, determinations of environmental compliance may be made by an Authorized Professional. In any case, this determination shall neither be final nor reviewable and becomes part of the final determination. The EQB may issue a determination of environmental compliance only when it is the sole agency with jurisdiction on the proposed action.

K. FINDING OF NO ENVIRONMENTAL IMPACT OR FONEI – The Proposing Agency’s finding, based on and supported by the information contained in an Environmental Assessment, that a proposed action will have no significant environmental impact, as defined in this Regulation.

L. FINAL DETERMINATION – An Act, Resolution, Report or Document containing an agreement or decision by the Executive Director, the Adjudications Board, the Autonomous Municipalities with a hierarchy from I to V, an Authorized Professional, or the Inspector General, that definitely awards a determination to the subject matter under consideration or any other similar or analogous determination as established in the Adjoining Regulation for Permits for Construction Projects and Land Use (“Adjoining Regulation”) enacted by the PMO. This will become a final and binding authorization once the corresponding term has elapsed. It is that final finding which includes a determination of environmental compliance together with the issue of a permit or approval by the Proposing Agency.

M. DETERMINATION OF ENVIRONMENTAL COMPLIANCE BY CATEGORICAL EXCLUSION – A determination by the PMO’s Director

or the Authorized Professional, certifying that the proposed action does not require any further environmental planning due to its classification as a Categorical Exclusion.

N. DIRECTOR – The Director of the Environmental Compliance Assessment Division.

O. EXECUTIVE DIRECTOR – The Executive Director of the Permits Management Office.

P. DISCRETIONARY – Describes a determination that entails a subjective judgment by the public official, the Adjudications Board or the Autonomous Municipality with a hierarchy of I to V, regarding the way in which an activity or action is carried out or proposed. They use special discretion or judgment to reach their finding, since this decision involves more than the use of fixed standards or objective measures. The official, Adjudications Board or Autonomous Municipality with a hierarchy of I to V, may use subjective, discretionary judgments to determine if or how an activity shall be carried out.

Q. ENVIRONMENTAL COMPLIANCE ASSESSMENT DIVISION OR ECAD – Shall assess the environmental compliance of any action that is subject to an environmental compliance analysis under Puerto Rico's Law of Environmental Public Policy.

R. DOCUMENT – Graphic or written material, either printed or in digital form, related to any matter inherent in the procedures authorized under Law No. 161, *supra*, and this Regulation, whose publication has not been restricted by legislation.

S. ENVIRONMENTAL DOCUMENT – A detailed planning document and its addenda, which discusses certain aspects regarding any proposed action which shall include an analysis, assessment and discussion of the possible environmental impacts associated with said action. For the purposes of this Regulation, this term applies only to an Environmental Assessment and to an Environmental Impact Statement.

T. PUBLIC DOCUMENT – Any document originating, kept, or received by any State agency in accordance with the Law or related to the management of public matters and that is to be permanently or temporarily kept as proof of the submittals or for its administrative usefulness, or legal, fiscal, cultural or informative value, as the case may be, or that, having no permanent value or administrative, legal, fiscal, cultural, or informative usefulness, is to be destroyed, and a copy of any publication by any government agency. Also, any document that

is expressly declared as a public document by any law, current or subsequently approved, as defined in Law No. 5 of December 8, 1955, as amended, known as the Public Records Management Act.

U. EFFECTIVENESS OF THE FINAL DETERMINATION AND PERMITS – The date of effectiveness of the final determinations issued by the PMO, the Authorized Professional or any other Proposing Agency, shall go into effect on the date that their notice is certified as issued.

V. EMERGENCY – Any serious anomaly such as a hurricane, earthquake, volcanic eruption, drought, fire, explosion, or any other kind of catastrophe or serious disturbance of the public order, or an attack by enemy forces, either by sabotage or by the use of bombs, artillery or explosives of any kind or by atomic, radioactive, chemical or bacteriological, or by any other means that the enemy may use, in any part of the territory of the Government of Puerto Rico, that merit the mobilization and use of extraordinary human and economical resources to repair, avoid, prevent or reduce the severity or magnitude of the damages that are caused or that may be caused. Also the term emergency includes any event or serious deterioration of the physical infrastructure for essential services to the public, or that puts at risk the life, public health or security of a sensitive ecosystem's population.

W. CONCERNED GOVERNMENT ENTITY – These are, collectively: the Planning Board (PB); the Environmental Quality Board (EQB); the Public Service Commission (PSC); the Puerto Rico Electric Power Authority (PREPA in Spanish); the Roads and Transportation Authority (RTA); the Department of Natural and Environmental Resources (DNER); the Water And Sewer Authority (WSA); the Telecommunications Regulation Board (TRJ); the Department of Transportation and Public Works (DTPW); the Commerce and Exports Company (CEC); the Industrial Development Company (IDC); the Tourism Company (TC); the Puerto Rican Institute of Culture (PRIC); the Department of Agriculture (DA); The Department Of Health (DH); the Fire Corps (FC); the Puerto Rico Police (PRP); the Department Of Housing (DH); the Department of Sports and Recreation (DSR); the Solid Waste Authority (SWA); the Department of Education (DE); the Ports Authority (PA); the Equestrian Sports Industry Administration (ESIA); the State Historic Preservation Office (SHPO); the Energy Affairs Administration (EAA); and any other agency or instrumentality that the Governor so determines by Executive Order.

X. PROCEDURAL ERROR OR OMISSION – An unintentional, omission or typing error that cannot be considered to pertain to the

substance of the action. This kind of error may be corrected, since it is clearly supported by the file, which makes it rectifiable.

Y. ERROR OR OMISSION IN CONTENTS – An unintentional, omission or typing error that has the potential for altering the determination and/or the substance of the action that is contemplated in the environmental document. This error cannot be rectified or corrected unless the application for a determination of environmental compliance is withdrawn and said amendment is shown to have attended and evaluated the impact intended for discussion.

Z. CONVENIENT SCALE – A scale that allows the perception of the details that are relevant to the proposed action and which are to be presented in a plan.

AA. ENVIRONMENTAL ASSESSMENT OR EA – An environmental document used by the Proposing Agency to determine whether or not the proposed action could possibly have a significant environmental impact when said Agency decides not to submit an EIS beforehand.

BB. CATEGORICAL EXCLUSION – Those predictable or routine actions that will not have a significant environmental impact during their normal execution. Those remedial actions that are to be taken by any agency, as well as those they may have to undertake by means of a private entity to implement said remedial action, in order to protect the environment, shall also be considered a Categorical Exclusion. The EQB shall determine by means of this Regulation, or by a Resolution to that effect, the actions that are to be considered as categorical exclusions according to Rule 119 of this Regulation.

CC. CUMULATIVE IMPACT – The total effect upon the environment resulting from a series of past, present and future actions, of independent or common origins, and which shall be evaluated as part of the environmental compliance assessment process.

DD. ENVIRONMENTAL IMPACT – The direct, indirect and/or cumulative effects of a proposed action upon the environment, including such factors or conditions as: the use of land, air, water, minerals, flora, fauna, noise, objects or areas of historic, archeological or aesthetic value, and economic, social, or cultural aspects or of public health.

EE. SIGNIFICANT ENVIRONMENTAL IMPACT – The substantial effects of a proposed action upon one or several elements of the environment, such as, but not limited to: a biotic population, a natural resource, the aesthetic or cultural environment, quality of life, public

health, renewable or nonrenewable resources; or that the long term beneficial uses of the environment could be sacrificed in favor of a short term use or vice versa. Each of the elements listed here shall be evaluated independently as well as in combination with the others.

FF. ENVIRONMENTAL QUALITY BOARD – Any organization of the Government of Puerto Rico, created by the Law of Environmental Public Policy, Law No. 416 of September 22, 2004, as amended, 12 L.P.R.A. §8001 et seq., as amended.

GG. ADJUDICATIONS BOARD – The Adjudications Board of the Permits Management Office.

HH. ENVIRONMENTAL JUSTICE – Fair treatment and the significant participation of all people independently of their race, color, national origin, culture, education or income regarding the development and application of environmental laws, regulations and policies.

II. ENVIRONMENTAL PUBLIC POLICY LAW– Law No. 416 of September 22, 2004; 12 L.P.R.A. §8001 et seq., as amended.

JJ. STANDARDIZED ADMINISTRATIVE PROCEDURES LAW - Law No. 170 of August 12, 1988, as amended, known as the “Standardized Administrative Procedures Law of the Commonwealth of Puerto Rico,” that for the purposes and objectives of Law No. 161, *supra*, shall only apply to the process of adopting, amending and revoking this Regulation and/or of reviewing the determination of Categorical Exclusion by a Resolution of the EQB, according to Rule 119.

KK. MINISTERIAL – Describes a determination that does not entail a subjective judgment by a public official or Authorized Professional regarding the way in which an activity or action is carried out or proposed. The official or Authorized Professional merely applies the law’s or regulation’s specific requirements to the facts that were submitted, but uses no special discretion or judgment to reach their finding, since this decision involves only the use of fixed standards or objective measures. The official may not use subjective, discretionary or personal judgments to determine if or how an activity shall be carried out.

LL. MUNICIPALITY – A geographic area with all of its wards that has a particular name and is governed by a local government, comprised by a Legislative and an Executive Branch.

MM. AUTONOMOUS MUNICIPALITY WITH A HIERARCHY OF I TO V – A municipality to which the Planning Board, by means of a delegation agreement, has transferred specific competencies and hierarchies, either partially or totally, regarding land use.

NN. PERMITS MANAGEMENT OFFICE OR PMO – An entity created by Law No. 161 of December 1, 2009, as amended, better known as the Puerto Rico Law for the Reform of the Permit Process.

OO. PARTY – That natural or legal person, entity or agency that is affected by a final determination that includes a determination of environmental compliance by the Permits Management Office, the Adjudications Board, or an Autonomous Municipality with a Hierarchy of I to V.

PP. SCHEMATIC PLAN – A plan that shows the distribution of a project's components in general terms.

QQ. PRE CONSULTATION – Guidance that may be petitioned from the PMO, prior to the filing of an application for a proposed project, in which its level of compliance with legal and regulatory provisions is identified.

RR. ENVIRONMENTAL PLANNING PROCESS – A process, through which the municipal or government entity obtains, evaluates and analyzes all of the information that is necessary to ensure that the short term and long term environmental impacts of their decisions are considered. This planning tool serves as a frame of reference upon which informed decisions may be taken and to guarantee compliance with Puerto Rico's Environmental Public Policy Law. The environmental planning process is an informal, *sui generis* process that is excluded from the application of the Standardized Administrative Procedures Law.

SS. ACTION PROPONENT – That natural or legal person, or government agency, department, instrumentality or entity, that intends to carry out an action for which a discussion of the impact that the same may have upon the environment is required.

TT. AGRICULTURAL PROJECT – An activity destined to the production and raising of animals or the planting and cultivation of species in rural areas.

UU. RECOMMENDATION – A nonbinding written communication by the Permits Management and/or the Director of ECAD, as may apply,

regarding a proposed action, exclusively showing said action's compliance or noncompliance with the applicable laws and regulations under their jurisdiction. A consulted agency's reaction to the contents of the environmental document shall also be considered as a recommendation.

VV. RESOURCES – The ecological, natural, human, historic, socio-cultural and aesthetic values affected by the execution of an action.

WW. NATURAL RESOURCES – Those natural elements that are available for the exploitation of Humans and other species and which are a part of the geographic framework of a region, such as: land, air, water, flora, fauna and minerals, among others.

XX. REGISTRY OF FINAL DETERMINATIONS AND RECOMMENDATIONS – A public registry, which could be in electronic form, that includes the final determinations and recommendations issued by the Executive Director, Adjudications Board and by Authorized Professionals, as may apply.

YY. SINGLE FAMILY RESIDENCE – A property designated as housing for a single family placed in independent and separate units, and having no walls or surfaces in common with another property, or where the only thing in common is limited to a dividing wall.

ZZ. USE – The purpose for which a property was designed, is occupied, or used, or is intended to be occupied or used.

AAA. USE OR AWARD OF FEDERAL FUNDS – Actions to be undertaken by the use or award of federal funds that require that the environmental compliance assessment process be similar to the process established by the National Environmental Policy Act (NEPA) or a “NEPA-Like Process.”

BBB. SUBSTANTIAL VARIATIONS OR CHANGES – Those variations or changes that have occurred or are yet to occur, and are not considered in an environmental document, which may have an additional environmental impact that requires a modification of the final determination that was issued or of the environmental document under evaluation. The existence of a substantial variation may be determined by the Proposing Agency or the PMO.

CCC. NONURBAN AREA – Includes the rural area or zone, which are all of the lands within the jurisdiction of Puerto Rico that have not been designated as urban districts by the PB, as well as the land areas as for

the interior bodies of water, the coastal zone, except for its urban districts, the maritime-terrestrial zone and the territorial waters of Puerto Rico.

DDD. URBAN ZONE – Synonymous to urban area and comprising the lands within the perimeter or extent of urban sprawl, as delimited by the PB in the Urban Development Map for each municipality or that which is defined as Urban Land in the corresponding Land Use Plan.

CHAPTER III EXCLUSIONS AND PROHIBITIONS

Rule 110: Exclusions and Prohibitions

A. Exclusions and Prohibitions

No project or action whatsoever which could have any environmental impact shall be initiated or carried out without first undergoing an environmental planning process before the PMO or the EQB, as may apply.

No project or action whatsoever shall be fragmented or segmented with the purpose of avoiding that a complete environmental planning process is carried out. The Proposing Agency shall be responsible for submitting an environmental document that contemplates the total impact of the proposed action.

The PMO may deny an application for an environmental compliance assessment if it understands that the proposed action is fragmented or segmented.

B. Exclusion

Those projects or actions that by their nature have been previously considered to be Categorical Exclusions by the EQB shall be exempted from submitting an environmental document as defined herein, provided that the action to be carried out complies with the requirements established in this Regulation. However, the application of a Categorical Exclusion shall be claimed by submitting an application to that effect for each proposed action.

The individual or professional that prepares the environmental document or completes the form claiming that the action to be undertaken applies as a Categorical Exclusion, certifies under oath and subject to the penalties imposed under Law No. 161, *supra*, or any other state or federal law to that effect, that the information contained is true, correct and complete.

CHAPTER IV ENVIRONMENTAL DOCUMENTS

Rule 111: Types, Formats, Requirements, Environmental Public Documents and Exceptions

A. Types of environmental documents

1. Environmental Impact Statement (EIS); and
2. Environmental Assessment (EA).

B. Environmental document formats

1. All environmental documents shall be submitted to the PMO electronically for its corresponding evaluation through the Proposing Agency, as defined in this Regulation.
2. Environmental documents may be written in Spanish or in English. However, if it is written in English, its Spanish version shall have to be provided to persons who so request it.

C. Formatting requirements

1. Original submittal letter that includes:
 - a. Having the stamp of the Proposing Agency;
 - b. The type of environmental document being submitted;
 - c. The signature of the head or responsible official of the Proposing Agency; or of the person to whom this authority has been delegated;
2. An introduction sheet or preamble that includes:
 - a. The name of the Proposing Agency and of any other participating agency;
 - b. The name of the private entity that promotes the action, if any;
 - c. The title of the proposed action;
 - d. The necessity of the project;
 - e. An estimate of the total cost of the project;
 - f. The temporary and permanent jobs that will be generated during construction and operation;
 - g. Name, address and telephone number of the responsible official at the Proposing Agency;
 - h. Environmental document identification;

- i. A one paragraph summary of the subject matter contained in the environmental document;
 - j. A list of the scientific personnel that participated in the preparation of the environmental document, indicating their professional qualifications;
 - k. A list of the agencies, entities or individuals who have received a copy of the document. The recommendation obtained from consultations shall be included as Addenda to the environmental document;
 - l. The date when the document was circulated, if applicable.
3. A table of contents or an index;
 4. A summary;
 5. A detailed description, the purpose and justification for the proposed action;
 6. A description of the environment;
 7. An identification of the impacts that the proposed action will have upon the environment;
 8. Include the recommendations provided by the agencies that were consulted, if applicable;
 9. Finding of significant environmental impact or of no significant environmental impact.
 10. A certification by the responsible official of the Proposing Agency stating that all of the information contained in the environmental document is true, correct and complete;
 11. If the environmental document is an EIS, it shall include and discuss the alternatives that have been considered, including taking no action and the selected alternative;
 12. A brief description of the mitigation and/or control measures to be taken to protect the environment;
 13. Addenda.

D. Contents requirements

1. Environmental documents shall be objective, analytical, concise and written in terms that are easy to understand by the

community in general, but with enough information to inform the specialists regarding the particular problems or aspects within their field of specialized knowledge.

2. The contents of the environmental documents shall concentrate on the important factors of the proposed action. Any information that is pertinent to the proposed action or to its environmental impacts shall be included. Information that is not relevant to understanding the proposed action or its environmental impacts shall be excluded from the contents.
3. The environmental document may include, as a relevant and pertinent reference, information originating from recognized sources of expertise. Said information shall be included and adapted as part of the text of the environmental document, while stating the chapter, page, section and date of the cited document in a footnote and/or the complete study as an addendum to the environmental document.
4. Environmental documents shall necessarily and in general terms contemplate the minimum mitigation and/or control measures to be taken to protect the environment. The PMO or other entities may require additional measures as a part of their requirements to the issuance of their permits. Likewise, all of the permits issued by the agencies based upon the environmental document require that the corresponding mitigating measures are included as a condition to the permit. The PMO may issue administrative actions against those agencies that do not include these measures as a condition for their permits. The mitigation and/or control measures may not be used to request being excluded from the required environmental compliance and applicable permits.
5. The environmental document requirements contained in this Regulation shall be of strict compliance. In case that any of them should not be applicable, it shall be a requirement to include the reasons for its non applicability.

E. Public Documents

1. Any document that is included for evaluation as a part of the environmental document under this Regulation shall be a public document in accordance with Law No. 5 of December 8, 1955, as amended, known as the Public Records Management Act. These documents shall be available for a period of up to twenty

(20) years, counted from the date of the final determination contained in a determination of environmental compliance.

2. Any information related to an environmental document shall be available to the public for examination, except for those documents or information that, by prior request from the party, are submitted to the Proposing Agency and/or the PMO, asking that certain information contained in the documentation that was submitted be classified as confidential.
 - a. Information that may be considered confidential, following an evaluation to that effect, is that which is:
 - i. related to the production or production processes that are considered trade or business secrets;
 - ii. related to the sales volume; and/or
 - iii. that could adversely affect the competitive position of the information's provider.
 - b. The submitted information shall not be considered confidential when:
 - i. it is to be used officially by an employee, representative or officer of the PMO, a Proposing Agency, the Government of Puerto Rico or the Federal Environmental Protection Agency.
 - ii. in the analysis or summary related to the general condition of the environment, provided that the information cannot be identified with the origin of the same.
 - c. Government entities may claim confidentiality for certain information they provide, as a part of the processing of the environmental document, which are related or could have a bearing on:
 - i. health and safety; and/or
 - ii. official internal information.
3. Every government entity shall establish beforehand the mechanisms to identify what information meets the aforementioned exclusion requirements.
4. The preceding sections shall not apply in cases where the proposed action is related to the use or award of federal funds, as required by applicable federal regulation.

F. Exception

Those proposing agencies that are in compliance with NEPA's Section 102(2)(C) and have circulated the environmental document to the pertinent federal government agencies, shall not have to prepare a new environmental document in order to obtain a determination of environmental compliance from the PMO, according to the Environmental Public Policy Law, *supra*, provided that said document is in compliance with the criteria established in this Regulation.

Rule 112: Environmental Impact Statement (EIS)

A. Applicability

An EIS shall be prepared for every action that could have a significant impact on the environment or for those actions that are listed within this Rule.

B. Actions that require an Environmental Impact Statement

1. Any action that could significantly impact the use given to the different environmental components;
2. Any action whose undertaking entails the use of a substantial part of the infrastructure available in the area proposed. Said determination shall be supported and made by the public entity or entities that are to provide said service or infrastructure;
3. Any action that could significantly impact an area where natural resources or important ecological, recreational, social or cultural values exist;
4. The construction or lateral expansion of any landfill system;
5. The construction of any mayor stationary source of air polluting emissions;
6. Any project to be undertaken within the buffer zones of the lands reserved for the Tanamá River Karstic Zone National Park, 15 L.P.R.A. §863;
7. Actions that require permits for the excavation, extraction, removal or dredging of the components of the earth's crust within the coastal zones and the hydrographic basins of rivers that are used as water sources, 28 L.P.R.A. §207; and/or

8. Any action that when carried out in stages, does not require an EIS for each stage, but when considered together or by their cumulative effect, could have a significant environmental impact. Such cases require an EIS to be prepared and submitted, integrating the cumulative impact of all of the stages, to the extent they can be foreseen, until reaching its final development.
9. The PMO may require that an EIS be prepared for any action that, in its judgment and because of its characteristics, is determined as capable of having a significant environmental impact, based on the totality of the proposed action, even if the action is not clearly included in this Rule.

C. Responsibility for an Environmental Impact Statement

1. The Proposing Agency for an action shall be responsible and shall oversee the preparation of the EIS according to the provisions of this Regulation.
2. The EIS shall be prepared as soon as possible within the decision making process and prior to establishing any irrevocable compromise of environmental resources.

D. Contents of an Environmental Impact Statement

The EIS shall include the following information, in the order established herein, when applicable:

1. A Transaction Letter, as established in this Regulation;
2. An Introduction sheet or Preamble;
3. A certification, under oath, and subject to the penalties imposed by law, stating that the information contained in the environmental document is true, correct and complete;
4. A detailed description of the projected action, its location, purpose and need;
5. Whenever necessary, include an analysis or highly specialized information, these are to be included as addenda or as bibliographical references. Likewise, the scientific conclusions that are submitted shall be supported with correct and updated data. Any material that is incorporated as a reference shall be available for review within the established time limit for comments.

E. Technical contents of an Environmental Impact Statement, if applicable to the action

1. Placement and location maps or aerial photographs of the area that would be impacted at a scale of 1:20,000, showing the current conditions and those being proposed;
2. Lambert Coordinates;
3. Schematic plan of the project at a convenient scale;
4. Specifications for the area that the project occupies (feet, meters, etc.);
5. A detailed description of the flora and fauna within the area being evaluated, with their common and scientific names, including the methodology used during the investigation or census of the species described. In those cases where species that are rare, threatened or in danger of extinction are identified or found, as defined by state or federal regulations, information shall be included regarding their distribution, relative abundance, food chains, dwellings, and the relationships between the existing species;
6. Soil types and characteristics and existing geological formations within the project area and the adjacent areas. Indicating the information source from which the information was obtained;
7. The existing natural systems (caves, wetlands, natural reserves, bodies of water, forests, and ecologically sensitive areas) within the project area, or that will be impacted by the proposed action, and adjacent areas within a distance of four hundred (400) meters, as measured from the project perimeter, around the project, and the distance in which the project system is located. For each of these, the following information shall be included:
 - a. list every one of these resources or areas;
 - b. the location of every one of these resources or areas;
 - c. the impact upon every one of these resources;
 - d. the mitigation activities that shall be undertaken to protect every one of these resources;
 - e. protective measures for the existing natural systems.
8. Use and zoning classification of the proposed terrain for the project and the adjoining lands. Include a zoning map, if applicable;

9. Drinking water wells within a radius of four hundred (400) meters from the project perimeter;
10. Indicate whether the project, or any part of it, will be located within a flood zone; if so, the zone and maximum flood height for the proposed project area shall be provided.
11. An analysis of the natural habitat, when applicable, including the corresponding mitigation measures, that are in compliance with the requirements for the designation of natural habitats enacted by the DNER;
12. Available and proposed infrastructure. For these, include the following:
 - a. the demand for electric power during the different stages of the project;
 - b. the generated increase in vehicular traffic;
 - c. access routes to the project;
 - d. public and/or private drinking water connections;
 - e. estimated use and supply of water, for the different phases of the project;
 - f. estimated volume of waste water that will be generated during the construction and operation stages and the final method of disposal of such waters;
 - g. disposal area for storm water runoff;
 - h. final disposal area for waste water during the construction and operation stages. For these, include the following:
 - i. When waste water is to be disposed by a treatment system, a letter by the owner or operator of the system, stating the capacity of the system, shall be included.
 - ii. The EISs for projects that propose subsoil discharges shall discuss the area's geology, the hydrology within the area of interest, any underground sources of drinking water and the potential effects on the quality of underground water. The following elements, if they apply, shall be certified by a qualified professional who is licensed to practice his trade in Puerto Rico:
 - (1) percolation tests;
 - (2) water table tests; and
 - (3) a determination that the system is not located in an area that is flood prone

iii. If a tank is proposed for the storage of fluids, the following information shall be submitted:

- (1) design capacity and the way in which each tank will be installed, that is, whether it will be buried, partially buried or above the surface of the soil; and
- (2) the fluid that will be stored in each tank.

13. The EISs for projects that require a permit to discharge contaminants into bodies of water shall discuss the following aspects, as they may apply:

- a. In cases where the discharge is achieved by means of underwater pipes, a bathymetric map shall be included showing the proposed discharge route and the alternate routes that were considered and discarded, as well as the elements of judgment that support the choice that was made.
- b. In cases where the discharge is made into the sea, or into bays, estuaries or lakes a study of the currents on the surface and in the depths, including data on the average speed and direction of said currents, and showing the technology used to obtain the information, shall be included.
- c. A map showing the aquatic communities and their extent within a radius of five hundred (500) meters around the point of discharge into the sea, bay, estuary or lake. In case of rivers or streams, the map shall extend to the full width of the body of water, 50 meters upstream from the point of discharge including any tributary that continuously contributes its flow to the segment being studied and four hundred (400) meters downstream.
- d. A qualitative and quantitative assessment of the plankton, pelagic and benthic species, when applicable.

14. The distance from the project to the nearest residence;

15. The distance from the project to the nearest peaceful zone;

16. Development and population tendencies within the area being considered and any information related to these variables that might justify the action or determine the resulting impacts;

17. Land movement volume, if applicable;

18. Estimated noise levels, including their schedules; and the noise

control measure to be used to minimize the noise being generated and received during the construction and operation stages;

19. The solid waste that will be generated during the construction and operation phases; for these the following shall be specified and included:

- a. Type (hazardous or non hazardous);
- b. The volume or weight that will be generated, stored, transported and disposed of during the construction and operation, in convenient units;
- c. Methods for storage, transportation, treatment and disposal;
 - i. In case of facilities for the management and disposal of non hazardous solid waste, a letter from the SWA shall be included, establishing that the proposed project is consistent with the solid waste recycling and disposal plans established by that agency;
 - ii. In the case of facilities for the management of hazardous solid waste, aspects such as the following shall be discussed:
 - (1) The type of waste to be handled by the facility;
 - (2) Proposed alternatives (reuse, recycling, reduction, treatment, disposal);
 - (3) The criteria that was considered and chosen for the place where the facility will be established.

20. Air emission sources; for these the following shall be specified and included:

- a. The maximum capacity of each source of emissions (equipment, processes, consumption, etc.) in convenient units;
- b. Equipment and/or measures used to control air emissions, if applicable;
- c. An estimate of the air contaminant emissions, criteria, hazardous, or that contribute to the greenhouse effect, in tons per year;

In the case of an installation of a larger source or of a major modification to an existing source of emissions, an impact analysis on the air quality shall be submitted that includes:

- i. an estimate of the air contaminants emissions, criteria, hazardous, or that contribute to the greenhouse effect, in tons per year;
- ii. a demonstration that the allowable increase in emissions from the proposed larger source or modification shall not result in a violation of any National Ambient Air Quality Standards (NAAQS) rules.
- iii. a description of the methods used to determine the net increase in emissions and significant levels;
- iv. a description of the methods used to determine if the proposed source shall impact a Non Attainment Area, a maintenance zone, or contribute to cause an excess of the contaminant for which the area was classified as a nonattainment or maintenance zone, in violation of any NAAQS;
- v. a study of alternate locations, production processes and environmental control techniques for the proposed source in a Non Attainment Area, a maintenance zone, or that have a significant impact over these areas, discussing why and in what way are the benefits of the proposed source greater than the environmental and social cost imposed as a result of its location or construction;
- vi. a demonstration that the equipment or air pollutant control measure to be used represents, in the case of sources to be located in attainment areas, the best available control technology (BACT), and in the case of sources to be located in Non Attainment Areas or maintenance zones, the lowest achievable emissions rate (LAER);
- vii. an analysis of the risk of toxic or hazardous pollutant emissions, using a reference method that is approved by the Federal Environmental Protection Agency or the EQB.

21. Environmental justice analysis that, at a minimum, takes into account the following aspects:

- a. the distribution of the population by ethnic groups, and
- b. the distribution of the population by socioeconomic parameters.

22. A discussion of the environmental impact that includes the following aspects, if relevant and applicable: the welfare and health of humans; the use of land; the infrastructure available to service the project; the quality of air and water; minerals; flora and fauna; soil; flood prone areas; noise levels and objects or areas of historic, archeological or aesthetic value. The

discussion of these aspects shall be proportional to their relative importance and to the degree in which they may manifest effects that can be attributed to the proposed action;

23. A description and evaluation of the possible polluting agents that are to be generated and/or emitted, discharged or disposed of into the environment in any way during the development, implementation and operation of the proposed action. It shall describe how the proposed action will affect or harmonize with the objectives and specific terms of the current plans for land use, applicable public policies and controls for the area to be affected;
24. In cases where the proposed action contemplates a change in the land use classification, which may potentially lead to allowing uses with significant environmental impacts, list the criteria that led to the decision for said reclassification and the impacts to the environmental and socioeconomic values that may be affected;
25. Any significant and adverse environmental impact that cannot be avoided if the proposed action is carried out and the measures that shall be taken to mitigate the impact;
26. Justify the proposed use of resources if such could interfere with other potential uses for future generations. The Proposing Agency shall discuss said use of resources and justify any decision by balancing the long term losses against the short term benefits;
27. Justify any compromising of resources that involves their permanent loss as a result of the proposed action, and mention the measures proposed to mitigate said loss;
28. The ecological, historic, cultural, archaeological and physiographic aspects or values that may be affected;
29. The development plans that could be affected by the decision or action being considered in the EIS;
30. The important socioeconomic factors related to the execution or non-execution of the proposed action, such as, but without being limited to: permanent or temporary jobs to be created during the construction and operation stage;
31. energy requirements and the measures proposed to mitigate and reduce the use of energy;

32. As a comparison, the environmental impact of the proposed action and of the reasonable alternatives that were considered shall be submitted. Also it shall:
- a. substantially consider each alternative that was evaluated, including the proposed action, so that the people who use the EIS can evaluate their merits and the reasons that favor their selection;
 - b. substantially discuss the alternative of not carrying out the proposed action;
 - c. identify the chosen alternative;
 - d. substantially discuss the mitigation measures that would be necessary to be implemented as part of the chosen alternative.
33. When any of the requirements provided herein does not apply to the action, the conclusion of non applicability shall be explained.
34. A determination that the proposed action shall not entail a significant environmental impact and a narrative analysis that justifies said determination.

F. Special provisions related to an Environmental Impact Statement

1. If after the environmental document was validated, additional information should arise that requires its amendment, the evaluation application shall first be withdrawn to be modified. After this stage is completed, it may be submitted again. This update shall reinitiate the process from the document validation and/or correction stage, unless the situation requires a Request for Recommendation as a result of it having expired or if a new infrastructure is being proposed.
2. The PMO or the Proposing Agency may request additional information from the agencies involved or with expertise, whenever it is determined that such is necessary to carry out an adequate assessment of the proposed action's environmental impact which is adequate for the expertise of the corresponding entity.
3. Any substantial variations or changes in the original concept of an action for which a determination of environmental compliance for an EIS, or a final determination, has already been issued shall require that the process of submitting an environmental

assessment be reinitiated, provided that said variations entail additional environmental impacts. Variations to the original concept of a project that are not substantial shall not require any additional submittals as part of the process of environmental planning.

4. The Proposing Agency, in coordination with the PMO, shall determine if the proposed variation is or not substantial.

Rule 113: Environmental Assessment (EA)

A. Applicability

Any action that is covered by this Regulation, that does not require an EIS or that has not been classified as a Categorical Exclusion, shall meet the requirements of Article 4(B) of Law No. 416, *supra*, by submitting an Environmental Assessment.

B. Responsibility for the Preparation of an Environmental Assessment

Any Proposing Agency that intends to carry out an action that is covered under this Rule and which needs to comply with Article 4(B) of Law No. 416, *supra*, shall submit an Environmental Assessment.

C. Contents of an Environmental Assessment

1. A Transaction Letter, as established in this Regulation;
2. An Introduction sheet or Preamble;
3. A certification that the proposed action will not have a significant environmental impact, with a statement addressing of the environmental impacts that were evaluated for the action;
4. A certification, under oath, and subject to the penalties imposed by law, stating that the information contained in the environmental document is true, correct and complete;
5. A detailed description of the projected action, its location, purpose, need and;
6. Whenever necessary, include an analysis or highly specialized information, these are to be included as addenda or as bibliographical references. The scientific conclusions that are submitted shall be supported with correct and updated data. Any

material that is incorporated as a reference shall be available for evaluation.

7. Technical contents that includes the following, if applicable to the action:
 - a. Placement and location maps or aerial photographs of the area at a scale of 1:20,000, showing the current conditions and those being proposed;
 - b. Lambert Coordinates;
 - c. Schematic and conceptual plan of the project at a convenient scale;
 - d. Specifications for the area that the project occupies (feet, meters, etc.);
 - e. A detailed description of the flora and fauna within the area being evaluated, with their common and scientific names, including the methodology used during the investigation or census of the species described. In those cases where species that are rare, threatened or in danger of extinction are identified or found, as defined by state or federal regulations, information shall be included regarding their distribution, relative abundance, food chains, dwellings, and the relationships among the existing species;
 - f. Soil types and characteristics and existing geological formations within the project area and the adjacent areas. Indicating the information source from which the information was obtained;
 - g. The existing natural systems (caves, wetlands, natural reserves, bodies of water, forests, and ecologically sensitive areas) within the project area, or that will be impacted by the proposed action, and adjacent areas within a distance of four hundred (400) meters, as measured from the project perimeter, around the project, and the distance in which the project system is located. For each of these, the following information shall be included:
 - i. list every one of these resources or areas;
 - ii. the location of every one of these resources or areas;
 - iii. the impact upon every one of these resources;
 - iv. the mitigation activities that shall be undertaken to protect every one of these resources and/or;
 - v. protective measures for the existing natural systems.
 - h. Use and zoning classification of the proposed terrain for the project and the adjoining lands. Include a zoning map, if

- applicable;
- i. Drinking water wells within a radius of four hundred (400) meters from the project perimeter;
 - j. Indicate whether the project, or any part of it, will be located within a flood zone; if so, the zone and maximum flood height for the proposed project area shall be provided.
 - k. An analysis of the natural habitat, (when applicable), including the corresponding mitigation measures, that are in compliance with the requirements for the designation of natural habitats enacted by the DNER;
 - l. Available and proposed infrastructure. For these, include the following:
 - i. the demand for electric power during the different phases of the project;
 - ii. the generated increase in vehicular traffic;
 - iii. access routes to the project;
 - iv. public or private potable water taps;
 - v. estimated use and supply of water, for the different phases of the project;
 - vi. estimated volume of waste water to be generated during the construction and operation phases; The final disposal method shall be stated;
 - vii. disposal area for rainwater runoff;
 - viii. final disposal area for waste water during the construction and operation phases. For these, include the following:
 - (1) When waste water is to be disposed by a treatment system, a letter by the owner or operator of the system, stating the capacity and availability of the system, shall be included.
 - (2) If the use of an underground injection system is proposed, the following elements, if they apply, shall be certified by a qualified professional who is licensed to practice his trade in Puerto Rico:
 - (a) percolation tests;
 - (b) water table tests;
 - (c) a determination that the system is not located in a flood zone;
 - (3) If a tank is proposed for the storage of fluids, the following information shall be submitted:
 - (d) Design capacity and the way in which

each tank will be installed, that is, whether it will be buried, partially buried or above the surface of the soil.

- (e) The fluid that will be stored in each tank.
- m. The distance from the project to the nearest residence;
- n. The distance from the project to the nearest peaceful zone;
- o. Development and population tendencies within the area being considered and any information related to these variables that might justify the action or determine the resulting impacts;
- p. Land movement volume, if applicable;
- q. Estimated noise levels during the construction and operation stages, including their schedules. Noise control measures to be used to minimize the noise being issued and received during construction and operation;
- r. Solid waste to be generated; for these the following shall be specified and included:
 - i. type (hazardous or non hazardous);
 - ii. the volume or weight that will be generated, stored, transported and disposed of during construction and operation;
 - iii. methods for storage, transportation, treatment and disposal.
- s. In the case of facilities for the management and disposal of non hazardous solid waste, a written determination from the SWA shall be included, establishing that the proposed project is consistent with Regional Infrastructure Plan for the Recycling and Disposal of Puerto Rico's Solid Wastes;
- t. In the case of facilities for the management of hazardous solid waste, aspects such as the following shall be discussed:
 - i. the type of waste to be handled by the facility;
 - ii. proposed alternatives (reuse, recycling, reduction, treatment, disposal);
 - iii. the criteria that was considered and chosen for the place where the facility will be established.
- u. Air emission sources; for these the following shall be specified and included:
 - i. the estimated maximum capacity of each source in convenient units, if applies;

- ii. equipment and/or measures used to control air emissions;
 - iii. an estimate of the air contaminants emissions, criteria, hazardous, or that contribute to the greenhouse effect, in tons per year;
- v. When any of the requirements provided herein does not apply to the action, the conclusion of non applicability shall be explained.
- w. A determination that the proposed action shall not entail a significant environmental impact and a narrative analysis that justifies said determination.

CHAPTER V PROPOSING AGENCY

Rule 114: Proposing Agency

A. The Proposing Agency may be

1. The Permits Management Office – shall be the Proposing Agency in the determination of environmental compliance in those cases where the permits are issued pursuant to its Enabling Law.
2. An Autonomous Municipality with a hierarchy from I to V (“Autonomous Municipality”) – shall be the proponent of the action when it has been delegated, either partially or totally, with specific competencies and hierarchies regarding territorial organization pursuant to the transfer agreement established in Law No. 81 of August 30, 1991, as amended, better known as the Law of Autonomous Municipalities of Puerto Rico.
3. Concerned Government Entity – may be the Proposing Agency when the PMO or any Autonomous Municipality with a Hierarchy from I to V is not entitled to act as such.

B. Concurrent Jurisdiction

1. If the PMO, or any Concerned Government Entity has concurrent jurisdiction with an Autonomous Municipality for the issuance of permits, the Autonomous Municipality shall be the Proposing Agency for the environmental planning submittal.
2. If the PMO has concurrent jurisdiction for the issuance of permits with any other Concerned Government Entity, the PMO shall be the Proposing Agency for the environmental planning submittal.
3. If a concurrent jurisdiction exists between two Autonomous Municipalities, in the absence of an agreement between them, the PMO shall choose between them the one that meets the following parameters, in order of priority:
 - a. the magnitude of their participation in the proposed action;
 - b. the municipality’s specialized knowledge regarding the proposed action;
 - c. the length of time it has participated;
 - d. the stage in which each municipality participates in the project or action; and

- e. that municipality with the greatest amount of geographic area being impacted by the action that would be carried out.

CHAPTER VI ENVIRONMENTAL PLANNING STAGES

Rule 115: Pre Consultation, Proposing Agency Request, Consultation with Government Entities, Recommendation Request, Public Participation, Preparation, Document Validation and Filing

A. Pre Consultation

At any moment prior to the submittal of an environmental document before the PMO, the proponent of the action may optionally go to the PMO for a process of Pre Consultation, as established in the Adjoining Regulation. The purpose of this mechanism is to ensure and clarify, prior to the submittal of the environmental document, which are the requirements that could potentially be applied to a specific action, so that the procedures are simplified and the applicable legal provisions are met.

B. Proposing Agency Request

1. When the action for which an environmental document shall be submitted is proposed by a government entity or a private proponent, they shall notify their intention to initiate an environmental assessment process to the agency that will serve as proponent, or to the PMO, when it will be the Proposing Agency, by means of a submittal letter.
2. The applicant shall establish the jurisdiction of the agency that was requested to act as proponent, pursuant to the provisions of this Regulation. In order to expedite the acquisition of technical and scientific information, the agency that was requested to act as a proponent shall receive an environmental document project from the proponent, with all of the information that is necessary to assemble an adequate environmental document. The essential thing is for the Proposing Agency to maintain independent and objective criteria regarding the environmental document that is to be submitted. The information shall also include a breakdown of the agencies that have no participation through the PMO's Permits Managers or the entities that were or shall be consulted.
3. The Proposing Agency shall evaluate if the proposed action falls within its jurisdiction, in accordance with this Regulation, and determine if the environmental document project meets the requirements of this Regulation and Article 4(B) (3) of Law No.

416, *supra*.

4. Within the term of thirty (30) calendar days from the date when the application is submitted, the agency that was requested to act as a Proposing Agency shall determine if it will act as such and notify it in writing. If, based on the preliminary evaluation, the Proposing Agency understands that the environmental document has some deficiency that shall be amended prior to its submittal before the PMO, it shall request from the proponent of the action any study or information that it understands as necessary to complete the same or for the effective evaluation and discussion of the proposed action in compliance with the Regulation.
5. The Proposing Agency shall prepare a breakdown of the required documents for the proponent of the action, and shall establish the term of twenty (20) calendar days, which may be extended by ten (10) additional calendar days, for the required information to be submitted.
6. If the required information is not submitted by the time that the established term in which to submit the same, or its extension, if any, has elapsed, the Proposing Agency may deny its acceptance to serve as such. This notice of determination shall be made in writing and shall include any of the warnings that may apply. If there is an interest in initiating the submittal, the application shall be submitted once again.

C. Consultation of government entities

1. If considered necessary in order to discuss the environmental impact entailed by the action to a greater extent, at any moment before submitting the environmental document to the PMO, the responsible official of the Proposing Agency may consult and obtain an opinion regarding the proposed action from any other government organization with jurisdiction or relevance over the environmental impact that said action may have.
2. The government entity that is consulted shall be responsible for reviewing any document submitted and issue its recommendations in a timely manner. If the agency or entity that was consulted has no recommendations, it shall inform this fact to the parties within the term of thirty (30) calendar days from the date of the request.
3. After the term of thirty (30) days has elapsed without said

recommendation being received, it may be understood that the government entity has no recommendations to make regarding the document that was submitted. Recommendations by government entities are binding within their particular area of expertise, but not obligatory for purposes of evaluation and determination by the PMO. The only recommendations from an agency to be considered official are those that are printed on the official stationery of the agency and are signed by the responsible official or another authorized person, as the case may be.

4. The recommendations shall be considered and handled by the proponent of the action before the environmental document is submitted for validation before the PMO. The file for the proposed action shall include evidence of the submittal to obtain the recommendations.
5. In those cases where the proposed action is related to projects whose operation is contemplated within the regulations of the EQB, or that are regulated by this agency in any other way, the PMO shall require recommendations regarding the environmental document submitted for these projects from the EQB. Said recommendations shall be submitted within the term of thirty (30) days from the date of the recommendations request. In case that the EQB does not submit its recommendations within said term, the Proposing Agency shall submit the situation before the PMO, so that it may require the EQB to submit its recommendations regarding the proposed action. The PMO may issue an Order of Compliance to the Board, asking it to issue its recommendations within the term of fifteen (15) calendar days from the date of the Order notice. If the EQB does not issue its recommendations within said term, it shall be understood that it has no recommendations to make.
6. The agency that was consulted shall have a new opportunity to submit its recommendations during the public participation stage, if applicable, or during the publication of the Environmental Assessment, after the Request for Recommendations has been submitted.

D. Request for Recommendation

1. Before submitting an environmental document before the PMO, the Proposing Agency shall assist to the Request for Recommendation process before the PMO, as established in the

Adjoining Regulation, with the purpose of establishing what the available infrastructure or any other specialized information is in order to carry out the action.

2. The Request for Recommendation submittal to the PMO shall be accompanied by the draft copy of the environmental document. This Request shall not be considered a formal filing of the document, but the file shall have a number assigned to it with the purpose of keeping track of the process. Every proposed infrastructure shall discuss its environmental impact. If the determination resulting from the Request for Recommendations shows that the proposed infrastructure is not available and alternatives for the same were not submitted and discussed, a new application shall need to be submitted. If the PMO is the Proposing Agency, the proponent of the action shall be the one to submit the application. If it is the Autonomous Municipality or the Concerned Government Entity, its submittal shall fall upon them.
3. During the Request for Recommendation stage, the Infrastructure Managers of the PMO shall be in charge of the evaluation. A determination of Infrastructure availability shall be entered into the electronic record of the case within thirty (30) calendar days from the date when the Application was submitted. This determination of Infrastructure availability shall be valid for three hundred sixty five (365) days from its date of issue.

E. Public Participation, Comments and/or Recommendations

1. The Proposing Agency, in coordination with the PMO, shall issue a Public Notice regarding its Intention to Submit the Environmental Document in accordance with Rule 122 of this Regulation, for those environmental documents to which it applies, within a term not to exceed five (5) days from the time when the Request for Recommendation was submitted.
2. The draft of the Environmental Document or the Application for a Determination of Environmental Compliance by Categorical Exclusion shall be available for public review when applicable, from the time when the Public Notice is published. Public participation shall only apply in the case of EISs, Environmental Documents or Applications for a Determination of Environmental Compliance by Categorical Exclusion related to the use or award of federal funds according to the Rules of this Regulation.

3. In the case of proposed actions related to the use or award of federal funds that are intended to be carried by a determination of environmental compliance by Categorical Exclusion, the submittal of a Request for Recommendation shall not be necessary. The PMO shall assign a number to the application, and the proponent of the action, in coordination with the PMO, shall issue the Public Notice in accordance with Rule 122 of this Regulation. The Notice shall state that within a term of thirty (30) days from its publication, a determination of environmental compliance by Categorical Exclusion shall be issued.
4. If any objection should arise during the period of public participation for an application for a determination of environmental compliance by Categorical Exclusion for those proposed actions related to the use or award of federal funds that require a "NEPA-Like Process" of evaluation, the action shall be referred to the PMO Adjudication Board, to make the corresponding determination. If there are no objections, after the term of thirty (30) days from the publication of the Public Notice has elapsed, the application shall be submitted to the PMO's system for validation.
5. A copy of the published Notice and the publication affidavit shall be included in the electronic record of the environmental document, together with the documents that are submitted to the PMO in the validation stage of the environmental document.
6. Simultaneously with the publication of the Notice, the Proposing Agency shall circulate the environmental document by email or another means as established by an administrative Resolution by the PMO, to the government entities with bearing over the proposed action that are not represented through the Permits Managers. The PMO shall request recommendations from such government entities and inform them that they shall submit them in electronic form to the draft record of the environmental document within the term of thirty (30) calendar days from the date of said request notice. If the recommendations are not submitted within the established term, it shall be understood that they have no recommendations to make.
7. Upon the publication of the Public Notice, a period of thirty (30) calendar days in which the general community or any government agency or entity can submit their comments and/or recommendations regarding the environmental document shall begin. Likewise, a public hearing may be petitioned, which the

PMO shall grant at its discretion. Any recommendation or request for a hearing shall be entered into the electronic record assigned to the case.

8. In the case of an EA, Once the Request for Recommendation is submitted, the Proposing Agency, in coordination with the PMO, shall circulate the environmental document by email or another means as established by an administrative Resolution by the PMO, to those government entities with bearing over the proposed action that are not represented through the Permits Managers. This notice shall include a notice to the effect that their recommendations shall be submitted within the term of thirty (30) calendar days from the notification of said request. Said recommendations shall be entered into the electronic record assigned to the case. If the recommendations are not submitted within the established timeframe, it shall be understood that they have no recommendations to make.
9. The system will not accept any recommendations, comments, or requests for a hearing after the term of thirty (30) calendar days from the date of notification has elapsed, unless the PMO officially determines to extend the deadline.
10. If a public hearing is held, the Hearing Panel named by the PMO shall render a Report, which shall be filed electronically in the case file.

F. Preparing the environmental document for evaluation and determination

1. The comments and/or recommendations received during the public participation process, the recommendations and/or analysis by the Hearing Panel regarding the contents of the document and the discussion that stems from the hearing on the environmental impact of the action, the recommendations received from the Infrastructure Managers during the Request for Recommendations stage, as may apply, shall be addressed by the Proposing Agency and discussed in the environmental document. Said environmental document shall make reference to how the comments and/or recommendations were addressed.
2. The data and information gathering process in order to meet the contents requirements under this Regulation, as well as the discussion of the comments by the community and the recommendations by government entities, Infrastructure

Managers and the Hearing Panel, as may apply, shall be completed before the environmental document is submitted for document validation before the PMO. The Proposing Agency shall be responsible for ensuring that the environmental document that is submitted before the PMO meets all of the requirements that may apply to the action.

3. The Proposing Agency shall have a term of three hundred sixty five (365) days from the determination by the Infrastructure Managers on the Request for Recommendation to submit the environmental document to the document validation process. After the term has elapsed, the Request for Recommendation process shall have to be initiated again.

G. Documentation validation and/or correction of the Environmental Document by the Environmental Compliance Assessment Division

1. The Proposing Agency shall electronically file the environmental document being processed with the PMO under the file number assigned to it during the Request for Recommendation stage. If the application is for a determination of environmental compliance by Categorical Exclusion that is unrelated to the use or award of federal funds that require a “NEPA-Like Process”, a file number shall be assigned to it for the first time. This submittal shall have the purpose of validating the environmental document. If the Application was for a determination of environmental compliance that required a Public Notice, and the term of thirty (30) days has elapsed without objections, or if the Adjudication Board has ruled in favor of the applicant, the application shall be completed. The PMO, through its Executive Director and/or an Authorized Professional, shall automatically issue a determination of environmental compliance by Categorical Exclusion. Said determination shall become part of the administrative record and shall be a component of the final determination by the Proposing Agency, the Autonomous Municipality or the Authorized Professional.
2. The Service Representatives of the PMO shall be in charge of evaluating the environmental document, whom shall determine if the application meets the requirements provided in this Regulation before proceeding with the validation of the application. If any deficiencies are found in the document during its validation, the PMO shall electronically notify the Proposing Agency by posting an electronic notice to the record of the case

in order to have it corrected within a term of five (5) working days.

3. Either the Proposing Agency or the proponent of the action seeking a determination of environmental compliance by Categorical Exclusion shall have a term of thirty (30) calendar days to complete the application in the system. If the record is not complete by the time the term has elapsed, the application shall not be submitted and the process of application for document validation shall have to be restarted.
4. If the deficiencies that have been identified in the application are not corrected by the time the term has elapsed, the applicant will need to begin the document validation process once again. The electronic record for the case shall be posted with a notice that may include the reasons for its failure to validate, as well as a list of the information that is necessary for the validation to be processed effectively. However, if in the judgment of the PMO, in coordination with the ECAD, the environmental document could be supplemented with recommendations from the corresponding units, the same shall be validated and submitted together with the permit application.
5. Once the process of evaluation to validate the environmental document is completed, the PMO, through its Service Representative, shall complete the assignment of a unique file number within three (3) working days. Once the document has been validated, the application for an evaluation of environmental compliance shall be considered formally filed and be sent to ECAD.

H. Filing and evaluation of the environmental document

1. Once the environmental document has been filed and validated, the term for its evaluation by ECAD shall begin in accordance with the provisions of Rule 116 of this Regulation.
2. The EQB may assist ECAD in complex or historical matters whose evaluation and determination of environmental compliance have similar circumstances to matters that have been submitted to the EQB prior to the existence of the PMO.

**CHAPTER VII
EVALUATION AND DETERMINATION OF ENVIRONMENTAL
COMPLIANCE**

Rule 116: Evaluation and Determination of Environmental Compliance

A. Evaluation and Determination

After the environmental document has been formally submitted to the PMO, the same being either an Environmental Impact Statement or an Environmental Assessment, the PMO shall perform the corresponding evaluation and determination of environmental compliance according to the following:

1. The PMO, whenever the action is Ministerial and the submitted environmental document is an Environmental Assessment with a Finding of No Environmental Impact:

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed fifteen (15) days from the date when the application was formally filed for proposals located in urban zones and thirty (30) days for nonurban zones.

The Executive Director shall perform the determination of environmental compliance together with the final determination on the proposed action.

2. The PMO, whenever the action is Ministerial and the submitted environmental document is an Environmental Impact Statement:

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed sixty (60) days from the date when the application was formally filed.

The Executive Director shall send the recommendations by ECAD to the Adjudication Board so that, together with the permit application, the Adjudication Board may perform the determination of environmental compliance and issue the final determination.

3. The PMO, whenever the action is Discretionary and the submitted environmental document is an Environmental Assessment with a Finding of No Environmental Impact:

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed forty five (45) days

from the date when the application was formally filed.

The Executive Director shall send the recommendations by ECAD to the Adjudication Board so that together with the permit application, the Adjudication Board may perform the determination of environmental compliance and issue the final determination.

4. The PMO, whenever the action is Discretionary and the submitted environmental document is an Environmental Impact Statement:

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed sixty (60) days from the date when the application was formally filed.

The Executive Director shall send the recommendations by ECAD to the Adjudication Board so that together with the permit application, the Adjudication Board may perform the determination of environmental compliance and issue the final determination.

5. The Autonomous Municipality and the Concerned Government Entity whenever the action is Ministerial and the submitted environmental document is an Environmental Impact Statement or an Environmental Assessment with a Finding of No Environmental Impact (FONEI):

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed fifteen (15) days for Environmental Assessments and forty five (45) days for Environmental Impact Statements, counted from the date when the application was formally filed.

The Executive Director shall perform the determination of environmental compliance and send his decision to the Autonomous Municipality or the Concerned Government Entity so that they can determine a final determination for the permit application.

6. The Autonomous Municipality and the Concerned Government Entity, whenever the action is Discretionary and the submitted environmental document is an Environmental Impact Statement or an Environmental Assessment with a Finding of No Environmental Impact (FONEI):

The ECAD shall issue recommendations to the Executive Director within a term that shall not exceed thirty (30) days for Environmental Assessments and sixty (60) days for Environmental Impact Statements, counted from the date when the application was formally filed.

The Executive Director shall send the recommendations by ECAD to the Adjudication Board and it shall perform the determination of environmental compliance, then sending the decision to the Autonomous Municipality or the Concerned Government Entity, as may apply, so that they can determine a final determination for the permit application.

7. When the determination of environmental compliance is made by Categorical Exclusion and the Permit application is Ministerial:

The PMO, through its Executive Director and/or an Authorized Professional, may automatically issue a Determination of Environmental Compliance by Categorical Exclusion. This shall become a part of the administrative record and shall be a component of the final determination for the action proposed by the Proposing Agency or the Autonomous Municipality.

8. Green or Small and Medium Size Business Permits:

In case that the action to be undertaken is related to the award of a Green or Small and Medium Size Business Permit, the determination of environmental compliance shall be completed within a term no greater than forty five (45) days.

B. Review

Since determinations by the PMO regarding the compliance of a proposed action with the provisions of this Regulation and those of Article 4(B) (3) of Law No. 416, *supra*, are of an interlocutory nature, they can only be reviewed once the final determination is issued.

C. Contents of a Determination of Environmental Compliance

A determination of environmental compliance shall, as a minimum, include the following:

1. an account of what impacts were evaluated; and
2. the mitigation measures mentioned in the environmental document.

D. Duration of a Determination of Environmental Compliance

1. A determination of environmental compliance shall remain in effect until the maximum date for the start of the proposed action as established in the permit or approval that is a part of the final determination according to the Adjoining Regulation or to the corresponding regulations of the Proposing Agency. The terms of effectiveness shall begin upon notification of the final determination, establishing that the determination of environmental compliance shall become ineffective if substantial variations requiring an evaluation of their environmental impact are incorporated into the proposed project, or if extraordinary changes to the context on which the project was proposed should arise.
2. Once the term of effectiveness for the determination of environmental compliance has expired or when substantial variations are incorporated into the project, the determination of compliance with Article 4(B) of Law No. 416, *supra*, that was issued by the PMO shall be rendered null. The Proposing Agency or the proponent for the action shall not carry out the proposed action until a new determination of compliance is obtained in accordance with the provisions of Article 4(B) of the Environmental Public Policy Law, *supra*.
3. The determination of environmental compliance shall not be rendered without effect by modifications to the awarded permit or the issuance of operation permits, provided that the proposed action was started while the final determination remained in effect and no substantial variations have been incorporated.
4. Any infrastructure that has been committed to any action as part of a determination of environmental compliance shall be considered in subsequent applications even if the first action was not carried out.

CHAPTER VIII CATEGORICAL EXCLUSIONS

Rule 117: Determination of Environmental Compliance by Categorical Exclusion

A. Application submittals before an Authorized Professional or the PMO

1. When a permit application of a ministerial nature and the proposed action has been previously determined to be a Categorical Exclusion by the EQB, the permit applicant shall submit the application for a determination of environmental compliance by Categorical Exclusion before the PMO or an Authorized Professional.
2. If the permits are submitted to the PMO, the application shall be entered to the system together with the permit or authorization request, and a number shall be assigned to the application.
3. When claiming a Categorical Exclusion, the application form shall include a certification where the claimant, under oath and subject to the penalties imposed by law, certifies that the information contained in the same is true, correct and complete.
4. In the case of proposed actions related to the use or award of federal funds that require a "NEPA-Like Process" of evaluation and where the action is intended to be carried out by means of a determination of environmental compliance by Categorical Exclusion, the proponent of the action, in coordination with the PMO, shall issue a Public Notice in accordance with Rule 122 of this Regulation stating that an application for a determination of environmental compliance by Categorical Exclusion shall be formally submitted thirty (30) calendar days after the date of publication of the Notice.
5. Once the application has been entered into the system, and if it meets the contents requirements provided herein, the PMO, through its Executive Director and/or an Authorized Professional, shall automatically issue a determination of environmental compliance by Categorical Exclusion. Said determination shall become a part of the administrative record and shall be a component of the final determination by the Proposing Agency, the Autonomous Municipality or the Authorized Professional. If any objection should arise against an application for a

determination of environmental compliance by Categorical Exclusion for those proposed actions related to the use or award of federal funds that require a “NEPA-Like Process” of evaluation, the action shall be referred to the PMO Adjudication Board, to make the corresponding determination.

B. Requirements that the action shall meet for a determination of environmental compliance by Categorical Exclusion to be issued automatically

The applicant for a permit who wants to obtain an automatic determination of environmental compliance by Categorical Exclusion shall certify that it meets the following requirements:

1. Activities that involve the use or light construction of new structures may not be located or developed in:
 - a. special areas with flood, landslide or tide risks;
 - b. areas where the EQB or other state or federal government agencies have determined that the existing level of contamination exceeds the levels that are allowed by the regulations currently in force;
 - c. ecologically sensitive or protected areas, as established by the DNER, where unique species of flora and fauna exist or are in danger of extinction or where natural ecological systems could be affected, either directly or indirectly;
 - d. areas with problems in infrastructure or with deficiencies in the service systems that supply drinking water, sewage disposal, electric power supply or the road capacity to adequately handle motor vehicle traffic.
 - e. areas containing known or potential mineral deposits;
 - f. areas where archeological sites exist or with cultural value, as determined by the Puerto Rican Institute of Culture;
 - g. areas with rugged topography, hydrographic basins that could affect supply sources of drinking water; and
 - h. any other action that the EQB establishes by Resolution.
2. Will not discharge pollutants into bodies of water, nor generate of hazardous wastes or air emissions that exceed two (2) tons per year of criteria air pollutants, or five (5) tons of any combination of criteria pollutants, nor shall there be air emissions of hazardous or toxic pollutants nor objectionable odors.
3. The disposal or discharge of waste waters shall be accomplished by connections to the existing sewer system, which will require

an endorsement by the WSA prior to applying for a construction permit;

4. That the necessary infrastructure exists (drinking water and sewage system provided by the WSA, electric power, rainwater drainage, access routes) to service the operation of the project or proposed activity, except for agricultural projects which are located, as a general rule, in rural areas, as well as for associated single family residences where these kinds of installations are limited.
5. Where the operation of the activity does not affect residential areas or peaceful zones with noise pollution, as established by the Noise Pollution Control Regulation.
6. That the development of installations for commercial, industrial, service, or institutional use and land development for tourism and recreational projects does not exceed five thousand (5,000) square feet of construction in total area used and gross floor space and that it meets the location and operation conditions established by the PMO or by another agency with jurisdiction, as may apply.
7. The use of existing buildings or structures for commercial facilities, warehouses and industrial or service uses shall not exceed one hundred thousand (100,000) square feet in total area used and gross floor space. Said operation shall meet the location and operation conditions established by the PMO or by another agency with jurisdiction, as may apply, and those established for Categorical Exclusions in this Regulation.
8. In order to carry out or develop actions that were approved as Categorical Exclusions, the applicable permits for the construction and operation stages shall be obtained from government agencies.
9. The action may not be fragmented or segmented for evaluation purposes and the Proposing Agency shall determine if the same satisfies or not the requirements for being considered and carried out as a Categorical Exclusion.
10. In cases where the proposed action is related to the use or award of federal funds that require a "NEPA-Like Process" of evaluation, that it has fulfilled the requirement of publishing a Public Notice in accordance with Rule 122 of this Regulation.

C. Exceptions

Regardless of whether the action has been previously approved by EQB and included in their Resolution as a Categorical Exclusion, if it should not meet any one of the requirements provided in the previous section, the applicant shall have to prepare an environmental document in accordance with the requirements provided herein.

D. Authority of the Permits Management Office

1. The PMO Adjudication Board shall have the authority to determine that regardless of whether a certain activity can potentially meet the requirements to apply for a Categorical Exclusion, the same may not be designated as such due to certain particular characteristics of the action.
2. The PMO Adjudication Board, in exercising its discretion and according to the particular characteristics of the case, may require the submittal of an environmental document from the Proposing Agency for an action that the EQB has determined may apply for a Categorical Exclusion.

**CHAPTER IX
PROPOSED ACTIONS REGARDING THE USE OR
AWARD OF FEDERAL FUNDS**

Rule 118: Proposed actions regarding the use or award of federal funds that require a “NEPA-Like Process” of evaluation

The following requirements apply to proposed actions related to the use or award of federal funds that require a “NEPA-Like Process” of evaluation. The requirements contained in this Rule shall prevail over the requirements in other Rules of this Regulation. Also, this Regulation, including this Rule, shall be interpreted in such a way that guarantees compliance with federal and state regulations enacted under the National Environmental Policy Act, *supra*, and Law No. 416, *supra*.

A. Comments from the public and/or recommendations from the agencies that were consulted shall be duly considered, according to the requirements of the interdisciplinary consultation process established in the applicable federal regulation.

B. The evaluations and recommendations that the EQB sends to the PMO regarding the contents and compliance of the environmental document in accordance with 40 C.F.R. Sec. 35.3140(b), shall be highly binding pursuant to its authority under Law No. 416, *supra*.

C. Both, the EAs and the EISs for this type of proposed action regarding the eventual issue of a permit shall be subject to public participation by the issue of a Public Notice, in accordance with Rule 122 of this Regulation. Holding the public hearing shall be at the discretion of the PMO. In the case of Categorical Exclusions, a public hearing shall not be required. These environmental documents may be commented on by the general public and government entities during the environmental planning process.

D. The Proposing Agency shall keep an original publication affidavit of the newspaper that was used and an original sheet with the date of the newspaper where the notice was published.

E. The Proposing Agency, in coordination with the PMO, shall consult the federal and state agencies involved prior to submitting the environmental document. In these cases, the recommendations from the applicable concerned federal agencies and instrumentalities shall be binding within their respective areas of expertise and the PMO shall abide by the recommendations of the applicable concerned federal agencies and instrumentalities.

F. Final determinations related to these types of proposed actions shall, as a minimum, contain the following:

1. applicable determinations in fact and in law;
2. legal conclusions that support the determination;
3. an account of what impacts were evaluated;
4. mitigation measures mentioned in the environmental document;
5. date of notice; and
6. a reminder of the right to request a review or reconsideration of the same with an outline of the corresponding terms to request said review.

CHAPTER X
ACTION AND PROCESSES BEFORE THE ENVIRONMENTAL QUALITY BOARD

Rule 119: Environmental Quality Board Process to Evaluate and Determine if an action can be qualified as a Categorical Exclusion

A. Determination of Categorical Exclusion

1. The EQB, by its own initiative, or by written request from the party, shall determine by means of a Resolution to that effect, a list of those actions that by their nature, either routine or predictable, have been approved as Categorical Exclusions.
2. This determination shall be based on its experience and expertise. Said actions shall be included as part of the Resolution issued by the EQB Governing Board, which shall be reviewed every two (2) years as a minimum, or when the Board deems it pertinent.
3. The process of obtaining environmental compliance, beyond that which is established in this Regulation, shall not be necessary for those actions that have previously been included in the Resolution issued by the EQB Governing Board.
4. The EQB shall prepare, in coordination with the PMO, a form or template which shall include the minimum information required for the agencies to request that actions be evaluated for inclusion into the lists of Categorical Exclusions.
5. Those actions that the EQB Governing Board includes as part of their Resolution of Categorical Exclusions pursuant to this Rule may be claimed as a Categorical Exclusion during the process of determination of environmental compliance before the PMO, in accordance with Rule 117 of this Regulation, with the purpose of obtaining an automatic determination of environmental compliance without the need for any further submittals.

B. Applicability

Categorical Exclusions shall be:

1. those routine or predictable actions, activities involving use, already in operation, light construction projects, or those that shall be undertaken in order to mitigate or eliminate the damages that may be caused to the environment or that represent an

imminent risk to human health.

2. those actions that are judged by the EQB Governing Board to be in compliance with the requirements that are provided by this Chapter.

C. Contents of the request for a Categorical Exclusion in order to be approved by a Resolution from the EQB

Using the following criteria, as may apply, prepare a letter of explanation that justifies why the proposed action will not cause a significant environmental impact:

1. Parameters related to location:
 - a. Lambert coordinates;
 - b. exact physical address;
 - c. total area of the property;
 - d. gross area of construction or occupation;
 - e. classification;
2. Type of project;
3. Use;
4. Available infrastructure; and
5. Intensity and density of use.

D. Public Notice of Categorical Exclusions

1. Once the Resolution with the list of Categorical Exclusions is approved and notified, or every time said list is amended to include or eliminate any action as a Categorical Exclusion, the EQB shall issue a Public Notice for one day in a newspaper with general circulation informing the public of said approval or amendment.
2. The announcement shall inform the government entities and the parties that are actively entitled of their right to request a reconsideration of the decision that was taken or to request a judicial review, as may apply.

E. Notice of Approval for Categorical Exclusions

1. The EQB, by means of a Resolution, with copy to the PMO, shall

notify the agency that applied for a Categorical Exclusion of the approval or denial of any duly justified application for a Categorical Exclusion, as established in this Regulation, within a term that is not to exceed thirty (30) days, unless special circumstances should arise that justify a longer term. The Resolution shall be notified, also, by Public Notice, and the term to request a reconsideration of the decision that was taken or to request a judicial review of the same shall begin on the date of publication of the Public Notice.

2. Those construction projects or actions that are not listed or identified among the Categorical Exclusions approved by the EQB, but that because their operational or usage, magnitude and location characteristics are identical to those approved, the EQB may consider them and include them as Categorical Exclusions, provided that an application is submitted that shows, to the satisfaction of the EQB, that said activity is in compliance with the conditions established in this Regulation.
3. The EQB shall keep the list of current Categorical Exclusions in its website and in other appropriate means, for public scrutiny.

F. The effects of an approval or denial of a Categorical Exclusion request

1. When an agency intends to carry out an action for which the EQB has denied a request for a Categorical Exclusion, that Proposing Agency shall submit an environmental document in accordance with the provisions of this Regulation.
2. The approval of a Categorical Exclusion does not exempt the proponent of an action from complying with other applicable Regulations of the PMO or of any other government agency.

G. Extension to all government agencies

An action that has been approved as a Categorical Exclusion for one Proposing Agency shall extend to any other agency of the Government of Puerto Rico that so requests it, provided that the corresponding criteria and conditions that are established in this Regulation are met.

H. Inaction by the EQB before a Categorical Exclusion evaluation request

The inaction by the EQB Governing Board regarding a request for Categorical Exclusion may not, under any circumstance, be interpreted

as an approval of said request.

I. Term of Effectiveness for a Categorical Exclusion

Every Categorical Exclusion that was approved prior to this Regulation going into effect shall remain in force until the approval date of the new list of exclusions by the EQB Governing Board, and so successively, unless the EQB Governing Board determines otherwise.

J. Review of the determination of Categorical Exclusion

The EQB Governing Board may review any previously approved Categorical Exclusion when it so decides. The result of this review may be its elimination, modification or a ratification of its previous approval.

K. Undertaking an action

The permit applicant shall inform the PMO or the Authorized Professional, on a case by case basis, of the actions to be undertaken under a Categorical Exclusion, together with the submittal of a permit application. This notice shall certify that the proposed action meets each and every one of the conditions that apply for it to be a Categorical Exclusion.

Rule 120: Actions under the sole jurisdiction of the Environmental Quality Board

When the only action is the issuance or modification of a permit, not subject to Law No. 161, *supra*, and under the sole jurisdiction of the EQB, an environmental impact assessment of the proposed action by the Environmental Compliance Assessment Division of the PMO shall not be necessary.

The EQB may perform an assessment of the environmental impacts of said action and include, as part of the issuance or modification of the permit or authorization, all of the conditions that are necessary to protect the environment and its natural resources.

The permit applicant shall certify in writing, under oath and subject to the penalties imposed under Law No. 161, *supra*, that the EQB is the only agency with the jurisdiction to issue or modify the corresponding permit or authorization, and include an assessment of the environmental impacts related to the proposed action.

Rule 121: Waiver in the Event of Emergencies

The EQB Governing Board may grant a waiver for the provisions of this Regulation when it determines that emergency circumstances exist as defined herein. The waiver shall only apply while the circumstances that caused the emergency exist and it shall be handled according to Section 3.17 of the LSAP, *supra*.

**CHAPTER XI
PUBLIC NOTICES AND PUBLIC HEARINGS**

Rule 122: Public Notices

The notices required by this Regulation shall contain, as a minimum, the following information:

A. Notice of Intent for the Submittal of an Environmental Document

1. It shall be published in one (1) newspaper with daily general circulation for a term of one (1) day;
2. The notice shall include the following information:
 - a. name and logo of the Proposing Agency;
 - b. the file number assigned to the environmental document during the Request for Recommendation process;
 - c. the logo of the PMO when it is not the Proposing Agency;
 - d. name, address and telephone number of the responsible official;
 - e. the private entity that promotes the action (if applicable);
 - f. nature of the matter or proposed action;
 - g. a brief account of the documents, reports or other information that will be available to the public;
 - h. the place where the documents shall be available from the date when the notice is published, including the website of the Proposing Agency and a printed copy at the city hall of the municipality where the action is to be carried out;
 - i. a statement regarding the term of thirty (30) calendar days from the publication of the Notice, in which to request a public hearing which will be granted at the discretion of the PMO;
 - j. email and postal address where the comments and/or recommendations are to be sent;
 - k. a statement to the effect that notice of the hearing shall be posted on the website of the PMO at least thirty (30) calendar days of prior to the same, stating the place, date and time of the hearing.

B. Contents of the Publication Notice of Intent to request environmental compliance by Categorical Exclusion for proposed actions related to the use or award of federal funds that require a “NEPA-Like Process” of evaluation

1. Logo of the PMO;
2. Name, address and telephone number of the proponent of the action;
3. File number assigned to the Determination of Environmental Compliance Request;
4. Nature of the matter or proposed action;
5. Location of the proposed action;
6. The nature of the federal funds that will fund the action;
7. Number of the Categorical Exclusion being requested;
8. A statement to the public and to government entities regarding the non-extendable term of thirty (30) calendar days from the publication of the Notice, in which to request comments and/or recommendations before the PMO;
9. Email and postal address where the comments and/or recommendations are to be sent;

C. Contents of the Public Notice for a final determination that includes a determination of environmental compliance for an Environmental Impact Statement.

1. A Public Notice shall be posted on the website of the PMO for thirty (30) calendar days from the notification of a final determination that contains a determination of environmental compliance.
2. The Public Notice shall include the following information:
 - a. Name and logo of the Proposing Agency;
 - b. The logo of the PMO when it is not the Proposing Agency;
 - c. The file number assigned to the environmental document;
 - d. Name, address and telephone number of the responsible official;
 - e. The private entity that promotes the action (if applicable);
 - f. Nature of the matter or proposed action;
 - g. A statement to the effect that the Proposing Agency has issued a final determination that includes a determination of environmental compliance;
 - h. The place where the documents shall be available (these

shall be available from the date when the notice is published), the printed copy and a digital copy on the website of the Proposing Agency, as well as a printed copy at the city hall of the municipality where the action is intended to be carried out;

- i. A reminder of the right to request a review of the determination before the Review Board, with an account of the terms for the review.

D. Duty to provide copies

The Proposing Agency or the PMO shall supply a copy of the environmental document to anyone upon request, following the procedures established by the PMO.

E. Responsibility to publish a Public Notice

The Proposing Agency shall be responsible for the publication of Public Notices. The cost for said Notice shall be at the expense of the private proponent of the action, if applicable.

Rule 123: Public Hearings

A. Granting of Public Hearings

1. The Public Hearing shall be held at the discretion of the PMO in coordination with the Proposing Agency within the term of thirty (30) days after the same is granted;
2. The Public Notice announcing the hearing shall be posted on the website of the PMO at least thirty (30) calendar days prior to the hearing. This notice shall also include the place, time and date that the hearing will be held. The Public Hearing shall be held following the requirements of the regulation for holding public hearings as established in the Adjoining Regulation enacted by the PMO.
3. The hearings that the PMO holds under the jurisdiction of this Regulation shall be investigative and informal and their purpose shall be to obtain information that could be useful in determining the appropriateness of the environmental document. Said hearings shall be held following the requirements of the regulation for holding public hearings as established in the Adjoining Regulation.

B. Factors to be considered

In order to determine whether an action or matter requires holding a public hearing, the PMO shall take the following factors into account:

1. the magnitude and nature of the foreseen environmental impact, the size of the investment, the nature of the geographic area and the compromising of natural resources involved in the proposed action;
2. the degree of interest that the public, the PMO and the government agencies have in the proposed action;
3. the reasonable expectation that information may be presented in the public hearings that can help achieve the most comprehensive understanding of the action involved and its impact; and
4. the reasonable expectation that it will help the Proposing Agency to meet its environmental responsibility regarding the proposed action.

C. Notification

The public shall be notified that a Public Hearing will be held in accordance with the following requirements:

1. a notice shall be posted on the website of the PMO;
2. the notice shall be posted at least thirty (30) days prior to the Public Hearing and the Notice shall be available until the date of the same;
3. the contents of the Notice shall include:
 - a. Date
 - b. Time
 - c. Place where the hearing shall be held
 - d. Purpose of the hearing
 - e. Places where the file shall be available for evaluation

D. Procedure for Public Hearings

1. Public hearings that are held in order to evaluate and determine environmental compliance shall be informal and investigative in character.
2. The PMO Adjudication Board shall determine if the hearings

provided for in this Chapter shall be held before it or be delegated to a Hearing Panel. Said Panel shall be named by the Adjudication Board and shall be comprised of one or more persons serving as Hearing Officers, and the Adjudication Board shall determine which Hearing Officer shall preside over the hearing.

3. When a panel is comprised of more than one person; at least one Hearing Officer shall be an attorney and another may be a technical professional with knowledge in the object matter of the proposed action.
4. The designated Hearing Panel shall have the authority to direct, coordinate or intervene in all of the affairs related to the hearing that are delegated to it by the Adjudication Board. It is hereby provided that said Hearing Panel shall not be authorized to recommend the appropriateness of the submitted environmental document and its involvement is limited to gathering the data and information provided at the public hearing.
5. The Public Hearing provided for in this Regulation shall take place in accordance with the procedural norms to be established in the Adjoining Regulation that the PMO enacts.

E. Subsequent Procedure for a Public Hearing

1. In a term no greater than twenty (20) calendar days from the date when the period of public participation and the receipt of comments and/or recommendations from government entities and the general public ends, the PMO Adjudication Board shall receive a Report from the Hearing Panel regarding the public hearing that was held. The Adjudication Board may extend said term for a maximum of ten (10) additional days, depending on the complexity of the proposed action.
2. The Report shall be posted to the electronic record for the proposed action with a copy to the Adjudication Board. The Proposing Agency shall handle those applicable comments and/or recommendations that were received prior to submitting the environmental document for validation before the PMO.
3. The decision taken by the Adjudication Board or the Executive Director, as may apply, shall be notified to the Proposing Agency by means of the electronic record.

CHAPTER XII NONCOMPLIANCE WITH THE REGULATION

Rule 124: Violations

Any action for which a determination of environmental compliance under the provisions of this Regulation was issued shall be subject to being carried out according to what was evaluated and approved. Any variation or change in the action that has not been authorized or evaluated shall be subject to penalties according to the Regulation of the Office of the Inspector General for Permits and may entail the revocation of the determination of environmental compliance, a Cease and Desist or the destruction of the works that have been carried out, at the discretion of the Court.

CHAPTER XIII REGULATORY PROCESS

Rule 125: Regulation Approval

The EQB approves this Regulation with the approval of the Governor after considering the comments presented by the Planning Board, in accordance with Law No. 161, *supra*.

Rule 126: Repeals or amendments

The EQB may revoke or amend this Regulation or enact a new Regulation in accordance with Law No. 170, *supra*. The EQB shall consider the comments presented by the Planning Board for any revocation, amendment or approval of a new Regulation for the Evaluation and Processing of Environmental Documents.

Rule 127: Date of enforcement for amendments

Any amendment to this Regulation shall be in force thirty (30) days after the date of its submittal to the Department of State or the term that may apply according to Law No. 170, *supra*, or as provided by any Special Law or legal provision.

Rule 128: Severability Clause

In case that any provision of this Regulation were declared null or illegal by court with jurisdiction and competence in the matter, said decision shall not affect the remaining provisions which shall remain in full force.

**CHAPTER XIV
THE PMO'S DUTIES BEFORE THE ENVIRONMENTAL
QUALITY BOARD**

Rule 129: Regulation Compliance Oversight

The EQB shall oversee the strict compliance of the PMO to this Regulation with the Environmental Public Policy Law.

Rule 130: Duty of the Permits Management Office before the Environmental Quality Board

It shall be the responsibility of the Director of the ECAD to submit a monthly report to the EQB that includes data on the types of projects that are contemplated in the environmental documents that were evaluated every month by each municipality. During the first ten (10) days of the month of February of each year, an Annual Report, gathering all of the data submitted as part of the monthly reports, shall be submitted. The information provided shall be included in the Annual Report regarding the State of the Environment that the EQB President shall submit to the Legislative Assembly and to the Governor.

