

**COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES
COASTAL ZONE MANAGEMENT PROGRAM**

**REQUEST FOR APPROVAL OF
CHANGES TO THE
PUERTO RICO COASTAL
MANAGEMENT PROGRAM**

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CONTENTS

INTRODUCTION4

BACKGROUND6

THE PUERTO RICO PERMIT PROCESS REFORM6

The Autonomous Municipalities 7

DESCRIPTION OF THE PROPOSED CHANGE TO THE PRCMP..... 10

1. CHANGES TO THE “FOUR COMMONWEALTH AGENCIES RESPONSIBLE FOR GUIDING DEVELOPMENT” (PRCMP, PP. 150-155); 10

a) *The Puerto Rico Planning Board (PRPB) 11*

b) *The Permit Management Office (OGPe, for its Spanish acronym) (PRCMP p. 154) 13*

c) *The Environmental Quality Board (PRCMP pp. 157-158)..... 18*

d) *The Department of Natural and Environmental Resources (DNER) (pp 158-160) 19*

e) *Changes to the Development Control Process of OGPe and PRPB (PRCMP, pp. 155-157) 20*

2. CHANGES TO THE LINKAGES ASSURING CONSISTENT ACTION IN GUIDING DEVELOPMENT (PRCMP PP. 160-163) .. 26

Linkages at the level of policies and plans (p. 161) 27

Changes at the Linkages at the regulatory level (p. 161-162)..... 28

Linkages at the permitting and project review (pp 162-163). 29

IDENTIFICATION OF ENFORCEABLE PRCMP POLICIES THAT WERE ADDED OR MODIFIED 31

REASONS FOR THE CHANGES TO THE PUERTO RICO PERMIT PROCESS AND DOCUMENTATION OF OPPORTUNITIES FOR PUBLIC PARTICIPATION 31

IDENTIFICATION OF PRCMP APPROVAL FINDINGS..... 31

MANAGEMENT TECHNIQUES OF THE PRCMP 35

DOCUMENTATION OF OPPORTUNITIES PROVIDED TO PARTICIPATE IN THE DEVELOPMENT AND APPROVAL OF THE PROPOSED AMENDMENT AT THE STATE LEVEL 36

APPENDICES:

APPENDIX A: Flowcharts for the New Puerto Rico Permit System41

APPENDIX B: Analysis Tables for the New Puerto Rico Permit System.....42

APPENDIX C: Federally Approved Authorities of the PRCMP And Relationship to Law 161 and Associated Regulations43

Appendix D: Examples of Delegation Agreements for the transfer of certain powers of the PRPB and OGPe to the Autonomous Municipalities of Bayamon and Guaynabo 50

ACRONYMS

AI	Authorized Inspectors
AM	Autonomous Municipalities
AP	Authorized Professionals
CE	Categorical Exclusion
CFR	Code of Federal Regulation
CZMA	Coastal Zone Management Act
DNER	Puerto Rico Department of Natural and Environmental Resources
DNR	Department of Natural Resources <i>(Former name of the DNER)</i>
EA	Environmental Assessment
EIS	Environmental Impact Statement
EQB	Puerto Rico Environmental Quality Board
FEIS	Final Environmental Impact Statement
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Maps
H. B.	House Bill
IPCR	Institute of Puerto Rican Culture
JPR	Joint Permit Regulation
LUPRB	Land Use and Permit Review Board
OGPe	Spanish acronym for Puerto Rico Permit Management Office
OIGPe	Spanish acronym for Puerto Rico Office of the Chief Permit Inspector
PRCMP	Puerto Rico Coastal Management Program and Final Environmental Impact Statement
PRLUP	Puerto Rico Land Use Plan
PRPB	Puerto Rico Planning Board
PyMES	Spanish acronym for Small and Medium-sized Businesses
RPA	Puerto Rico Regulations and Permit Administration
RPC	Routine Program Changes

INTRODUCTION

The Commonwealth of Puerto Rico requests approval of changes to the Puerto Rico Coastal Management Program (PRCMP) document, regarding its **authorities and organization** pertaining to land and water use decision making. The request for approval is due to changes in the legal, institutional, and regulatory framework related to the permit process in Puerto Rico, and their potential effects on decisions on land use, as well as project-related activities in the coastal zone.¹

On December 1, 2009, the Commonwealth of Puerto Rico approved the Puerto Rico Permit Process Reform Act, Law No. 161, which was substantially amended by Law No. 151 of 2013. The changes established by Law 161-2009, as amended, and its various implementing regulations include: the creation of a "one stop office" for permit management, the requirement of advanced technologies for permit administration, role assignment of certified professionals in certain permitting processes, expedite assessment and adjudication processes for ministerial permits, and a new oversight framework.

These changes modified the Commonwealth's organization to implement existing policies. However, notwithstanding these modifications, the Commonwealth remains organized to implement the PRCMP through direct State control: its authorities still sufficiently broad for the Program's implementation and relevant agencies are bound to act consistently with it. The PRCMP retains the means for guiding development on public and private property and exerts control over coastal lands and waters within the Commonwealth's jurisdiction. The Department of Natural and Environmental Resources (DNER), the Environmental Quality Board (EQB), the Puerto Rico Planning Board (PRPB), and the new Puerto Rico Permit Management Office (OGPe, for its Spanish acronym) retain final control over decisions regarding development permits. Consequently, the Commonwealth satisfies the Program

What are the authorities and organization of the PRCMP?

Section 306 d(2) (D) of the Coastal Zone Management Act states that the management program includes, among other things, an identification of the means by which the State proposes to exert control over the land uses and water uses, including a list of relevant State constitutional provisions, laws, regulations, and judicial decisions.

¹ The Puerto Rico coastal zone is defined as "Strip of coastal land one thousand linear meters (1,000 m) inland, measured from the coast line, as well as additional distances needed to include key coastal natural systems. It also includes territorial waters of Puerto Rico and the marine or ocean floor (three marine leagues, nine nautical miles or 10.35 land miles), the islands of Vieques, Culebra, Mona, Monito, Desecheo, Caja de Muertos and all the keys and islets within them."

implementation control requirements under subsection 306(d)(11)(B) of the Coastal Zone Management Act (CZMA), adhering to the 1978 PRCMP Findings of Assistant Administrator Robert W. Knecht.

This Memorandum discusses the changes to the PRCMP that emerged from the approval of Law 161-2009, including the amendments resulting from Law 151-2013, and its associated regulations. The Memorandum also discusses certain matters associated to the "Autonomous Municipalities Act of the Commonwealth of Puerto Rico", Law 81 of 1991, as amended, in order to clarify the relationship between the Central Government and the coastal municipalities, in terms of land use and the permitting process.

This Memorandum was prepared addressing the requirements in 15 CFR Section 923 Subpart H and specifically §923.81, and includes:

- A brief background of Law 161-2009, the newly created entities and its relation to Law 81-1991;
- A description of the proposed changes to the PRCMP, including specific pages and text of the 1978 Program that will be changing;
- An identification of the enforceable PRCMP policies that will be added or modified;
- An explanation of the reasons for changing the Puerto Rico's permit process;
- An identification of the PRCMP approval findings made by the Assistant Administrator when approving the Program in 1978, focusing on findings related to Organization, Authorities and Management Techniques; and
- A documentation of opportunities provided to the public and Commonwealth and Federal agencies to participate in the development and approval of the proposed amendment at the State level.

BACKGROUND

The Puerto Rico Permit Process Reform Act, Law No. 161 of December 1, 2009, as amended (from now on Law 161-2009), created new entities for the evaluation, granting, auditing, and reviewing of the permit process in Puerto Rico. It repealed the Organic Act of the Regulations and Permit Administration (RPA) and created the OGPe.

In 2013, Law 161-2009 was significantly amended by Law 151, as a result of further complaints associated to shortcomings and delays in the permitting process, as well as citizens' requests for more public participation and access to adjudicative forums. In addition, review and issuance roles regarding discretionary permits, as well as oversight and enforcement capabilities, were assigned to the OGPe and the PRPB.

The resulting Law 161-2009, as amended, created the following entities associated to the permit process²:

- The OGPe- With similar responsibilities to the RPA associated to the evaluation and granting of permits;
- The Authorized Professional (AP)- which are non-government professionals that can evaluate and make final determinations only for some ministerial permits; and
- The Authorized Inspectors (AI)- which are also non-government professionals that can evaluate and issue some certifications related to the use of a property.

Law 161-2009 also amended the Puerto Rico Environmental Public Policy Act³, Law 416-2004, and transferred the Environmental Review Process from the EQB to OGPe, along with the former's (EQB's) adjudicative role regarding environmental documents.

² In addition to the AP and AI, Law 161 as originally approved, created the following entities: (1) The Adjudicative Board: a component of OGPe, that was the entity responsible for evaluating and adjudicating final determinations and permits discretionary in nature; (2) The Land Use and Permit Review Board (LUPRB), which took the place of the Appellate Review Board that formerly had administrative review responsibilities at the RPA; and (3) The Office of the Chief Permit Inspector (OIGPe, by its Spanish Acronym), which supervised compliance with the final determinations issued under the law and the regulations relative to land use and development and to impose fines. These entities were repealed by Law 151-2013, and their responsibilities were assigned to the PRPB and OGPE.

³ Law No. 416-2004 superseded, Law 9, of 1970 which was incorporated into the original PRCMP. This change has not yet been incorporated into the Program.

In addition, Law 161-2009 consolidated most of the permit granting processes scattered among Commonwealth agencies into one Integrated Permit System. It also maintains the same delegation of various levels of permit authority from the RPA (now OGPe) to Autonomous Municipalities (AM), depending on their status per delegation agreements pursuant to Law 81-1991, as amended (Law 161-2009, Sections 1.3, 2.5 and 18.10).⁴

The Autonomous Municipalities

By virtue of Law 81-1991, some land use decisions and permit powers from the PRPB and the OGPe⁵ can be delegated to AM (Chapters 13 and 14 of Law 81-1991). This law authorizes all AM in Puerto Rico to develop their own land use plans (Ordinance Plans).⁶ Once an AM has an approved land use plan, it may request the Governor the transfer or delegation of certain powers from the PRPB and OGPe, including the evaluation and issuance of certain permits and authorizations (Section 13.012 of Law 81-1991). To evaluate and issue permits, an AM needs to demonstrate that it is competent to make certain permit related decisions under a Delegation Agreement with the PRPB and the Governor's approval. (See Appendix A: Flowcharts F-1 and F-4 and Appendix B). In addition, powers to be delegated to the AM must be exercised or applied exclusively within the territorial boundaries of the municipality. Also, the AM must provide the necessary standards to ensure a close liaison and collaboration with the PRPB and the OGPe throughout every process of the transfer of powers. The Delegation Agreement may set limitations to the powers thus delegated according to the capabilities of the AM.⁷

The transfer or delegation of certain powers from the PRPB and the OGPe to the AM, known as hierarchies, may be undertaken by sequential or simultaneous stages (See the following table). Once a hierarchy has been transferred, the evaluation process is also transferred, except for those powers reserved by the public agencies or through agreements. Once an AM grants an authorization or construction permit in a category, it shall also grant the use permit for said construction.

⁴ Law 81-1991 defines the Municipality as the "juridical entity of local government, subordinated to the Constitution of the Commonwealth of Puerto Rico and to its laws, whose purpose is the local common welfare and within it, primarily, the handling of the affairs, problems and collective needs of the inhabitants thereof" (Section 1.005).

⁵ When Law 81-1991 was approved it made reference to the now abolished the RPA.

⁶ As of August 2014, there are 27 of the 44 coastal municipalities with land use plans approved by the PRPB and signed by the Governor. These municipalities are: Aguada, Aguadilla, Barceloneta, Cabo Rojo, Camuy, Carolina, Cataño, Culebra, Dorado, Fajardo, Guayama, Guaynabo, Guánica, Hatillo, Humacao, Manatí, Mayagüez, Peñuelas, Ponce, Quebradillas, Río Grande, Salinas, San Juan, Santa Isabel, Toa Baja, Vega Alta, and Vieques.

⁷ In the Delegation Agreement the AM must evidence that it has a municipal permits office, must present a detailed estimate of the costs to implement the proposed transfer of powers, including those related to the technical, financial, and human resources needed to that effect and proof that the municipality has the technical, financial and human resources needed to enforce the powers whose transfer is requesting.

Land use and permits that may be issued by AM according to their hierarchy
Hierarchy I & II
(1) Use permits for existing structures or lots for uses which do not conform to the regulations in effect and require construction exceptions or variations.
(2) Authorizations for preliminary plans, construction permits and use permits on urban or developable land.
(3) Authorization to segregate up to ten (10) lots, including the remnants thereof, on urban or developable land.
Hierarchy III & IV
(1) Authorizations for preliminary plans, construction permits (conventional or by the certifications act) and use permits, all on urban or developable land. Consideration of projects whose construction area is less than five thousand (5,000) square meters, heights do not exceed four (4) stories and conform to the regulations in effect concerning the use and intensity of use. Including the consideration of urbanization projects that are incidental and inherent to the authorized construction. For the projects in this category to be considered by the municipalities, they must be located on lots on urban or developable land with a surface area of less than four thousand (4,000) square meters.
(2) Preliminary development authorizations, construction permits for urbanization works, and authorization of registration plans, all on urban or developable land. Consideration of urbanization projects of up to fifty (50) lots, pursuant to the regulations in effect.
(3) Amendments to the land use maps on urban or developable land. Construction of lots with a surface area not greater than two thousand (2,000) square meters, located on urban or developable land.
(4) Construction and Use Variances on urban or developable land with a surface area not greater than four thousand (4,000) square meters.
Hierarchy V
(1) Transfer of other powers of the OGPE and the PRPB, except the authorizations for industrialized construction systems, those reserved in the agreement, and those mentioned herein below. In the exercise of these powers and at the time of issuing an authorization or permit, the municipality shall ensure that the infrastructure needed to serve the project is available or that the effective and feasible manner to mitigate the effects of the project on the infrastructure has been identified before the project is ready to receive a use permit. A municipality may not grant a use permit if the infrastructure is not available.

Regardless of the transfers made, the PRPB and the OGPe reserve the power to evaluate and make final determinations for permits in the following circumstances:

- For private projects of a regional nature or impact not included in a municipal land use plan, which are important to the health, safety and welfare of the region, such as medical centers or industrial clusters.
- For public agency projects not included in the municipal land use plan, such as water or electricity infrastructure projects.
- Variations regarding use and intensity requirements.

- Municipal projects which have not been expressly delegated in an agreement or included in the municipal land use plan.

In addition, the municipalities are prohibited from issuing permits, approve development projects, implement any actions, or enact regulations that run contrary to or virtually amend the PRPB or OGPe regulations of regional or general applicability (Section 13.011 of Law 81-1991). This includes regulations on the coastal zone, floodplains, or historic sites, among others.

At present, seven (7) out of forty four (44) coastal municipalities have been granted a Category V Hierarchy. Those AM with permit offices are: San Juan, Guaynabo, Cabo Rojo, Aguadilla, Carolina, Ponce and Humacao.⁸

⁸ As of September 26, 2014 all seven coastal municipalities with some hierarchy already have the V hierarchy.

DESCRIPTION OF THE PROPOSED CHANGE TO THE PRCMP

Law No. 161 of 2009, as amended and its corresponding implementing regulations modified various sections of Chapter Four of the approved PRCMP. Chapter Four discusses authorizations and legal authorities to implement the Program's policies and management techniques, pursuant to 15CFR 923, Subpart E. Changes to these authorities and organization resulting from the approval of Law 161-2009 and its subsequent amendments, are discussed in the following sections:⁹

1. Changes to the "Four Commonwealth agencies responsible for guiding development" (PRCMP, pp. 150-155);
2. Changes to the development control process of RPA and the PRPB (PRCMP, pp 155-157):
 - Changes to the oversight and appeal process (PRCMP, pp. 156-157)
3. Changes to the EQB's responsibilities in guiding public and private development in coastal areas (PRCMP, p. 157)
4. Changes in linkages assuring consistent action in guiding development
 - Linkages at the level of policies and plans (PRCMP, p. 161)
 - Linkages at the regulatory level (PRCMP, pp.161-162)
 - Linkages at the level of permitting and project review (PRCMP, pp 162-163).

The following sections describe these changes in detail.

1. CHANGES TO THE "FOUR COMMONWEALTH AGENCIES RESPONSIBLE FOR GUIDING DEVELOPMENT" (PRCMP, pp. 150-155);

The most substantial change is that Law 161-2009, as amended, abolished the RPA by repealing its Organic Act, Law No. 76-1975. The RPA was responsible for handling building and use permits and some other operational duties previously handled by the PRPB (PRCMP, pp. 154-155). The RPA exercised its powers consistent with the PRPB's policies and regulations, and although it had the powers to adopt regulations, these were contingent upon the PRPB approval.

The enactment of Law 161-2009, as amended, transferred the permit administration and issuance of final determinations from the RPA and some Commonwealth agencies, including the EQB, DNER, and the PRPB, to the newly created entities. Law 161-2009, as amended, also maintains the delegations of

⁹ Pages identified correspond to those on the PRCMP and FEIS that will be changing.

various levels of ministerial and discretionary permits previously issued by the RPA, to the AM with hierarchies I to V, according to provisions of Law 81-1991. The previous and current roles of the agencies responsible for guiding development in the Commonwealth's coastal zone are described below.

As indicated on page 150 of the PRCMP, responsibility for guiding development on the coast as in the rest of Puerto Rico falls principally to four Commonwealth agencies: the Puerto Rico Planning Board (PRPB), the Puerto Rico Permit Management Office (OGPe, for its Spanish acronym), the Environmental Quality Board (EQB), and the Department of Natural and Environmental Resources (DNER).

a) The Puerto Rico Planning Board (PRPB)

According to the PRPB's Organic Act, Law No. 75 of 1975, as amended, the PRPB is the Commonwealth's agency responsible for land use determinations. Law 161-2009, as amended, does not affected the PRPB Organic Act, which means that the PRPB retains its role in guiding land use in Puerto Rico.

On the other hand, Law 161-2009, as amended, gives additional powers to the PRPB. The PRPB has the authority to audit final determinations made by OGPe, AP, AI and AM if it suspects of any incompliance, within a period not exceeding ninety (90) days from the date in which the determination is issued (Law 161-2009, Section 2.3C). This law also states that the PRPB shall regulate the method to randomly select the final determinations and permits to be audited. Based on the results of the audit the PRPB may impose fines or require the suspension, legalization, or rectification of a construction or any final determination.

The PRPB's regulatory powers also remain unchanged. However, Law 161-2009 resulted in additional planning regulations adopted by the PRPB. The PRCMP's description of Regulations adopted by the Board (PRCMP, p. 153) will be substituted by the following regulations.

- **Joint Permit Regulation for the Evaluation and Issuance of Permits Related to Development and Land Use, Regulation No. 31**

On September 19, 2014, the PRPB adopted the "Joint Permit Regulation for the Evaluation and Issuance of Permits Related to Development and Land Use", Regulation No. 31 (from now on JPR), according to Law 161-2009 and the amendments resulting from Law 151-2013.¹⁰ The JPR was adopted to detail the integrated permit system. It establishes the rules governing the

¹⁰ This regulation entered into force in March 24, 2015.

process, evaluation and granting of permits in Puerto Rico as well as land uses.

The JPR repealed¹¹ some PRPB regulations, although their respective provisions were incorporated into various chapters of the JPR. The purpose was to codify in a single document the regulations associated with the evaluation and issuance of development and land use permits; therefore the content of such regulations were not changed. Repealed regulations that were included in the PRCMP and FEIS which were reincorporated into the JPR are:

- Reg. No. 3, Subdivision Regulation, which was incorporated in Tome IV of the JPR¹²;
 - Reg. No. 4, Zoning Regulation, incorporated in Chapter 17 of the JPR;
 - Reg. No. 12, Regulation for the Certification of Construction Projects, incorporated in Chapter 14 of the JPR, and
 - Reg. No. 17, Planning Regulation for Coastal Zone and Access to Beaches¹³, incorporated in Chapter 30 of the JPR.
- **Regulations to Govern the Audit of Final Determinations and Issued Permits, Regulation No. 8572**

To comply with the oversight roles assigned by Law 16-2009, as amended, the PRPB adopted the “Regulations to Govern the Audit of Final Determinations and Issued Permits” which establishes the method to randomly select the final determinations and permits to be audited. Based on the results of the audits, the PRPB may impose fines or initiate a procedure to require the suspension, legalization, regularization or rectification of a construction or any final determination. This regulation took effect on March 20, 2015.

Judicial Review of PRPB decisions (PRCMP, p. 154)

The PRPB decisions are subject to judicial reviews as described below in the Development Control Process of the OGPe and the PRPB.

¹¹ The provisions of these regulations were incorporated in the JPR.

¹² Reg. No. 3 was amended in 1992 to, among other things, repeal Reg. No. 9 “The Neighborhood Facilities Regulation” and Reg. No. 11, “The Simple Subdivision Regulation”, whose dispositions were incorporated in the amended Reg. No. 3.

¹³ Included in the PRCMP through Routine Program Changes (RPC).

b) The Permit Management Office (OGPe, for its Spanish acronym) (PRCMP p. 154)

The PRCMP's description of the Regulations and Permits Administration (RPA) (pp 154-155) will be substituted by the following description of OGPe.

The PRPB's Organic Law assigned the agency's operational duties, in particular the implementation of planning regulations and other related activities, to the RPA. Later, with the approval of Law 161-2009, as amended, the RPA's Organic Act (Law 76-1975) was repealed and the OGPe was created with similar responsibilities associated to the evaluation and granting of permits (Law 161-2009, Section 2.1). The OGPe is ascribed to the PRPB, it is subject to the latter's regulations, and cannot supersede its authority (Law 161-2009, Section 2.1). Law 161-2009 transferred to the OGPe all the authorities and functions discharged by the RPA's Administrator (Section 2.20, Transfer of Functions) as well as the RPA's obligations (Section 2.21, Transfer of Obligations).

Provisions intended to ensure that public and private property are not used in conflict with adopted plans remain unchanged (PRCMP, pp. 151-154).

OGPe evaluates and issues certain permits that were, until now, under the jurisdiction of the RPA. OGPe is responsible for issuing final determinations, permits, and certifications related to development and use of buildings. These include: construction permits, use permits, reconstruction, alteration, expansion, demolition, removal of buildings or structures, lot subdivisions, site variances, environmental documents and development works. (See Appendix A: Flowchart F-1). OGPe may also enter into interagency agreements, to issue permits, certificates, and licenses, required for construction and use of buildings in Puerto Rico (Law 161-2009, Section 2.6).

OGPe is headed by an Executive Director appointed by the Governor with the advice and consent of the Senate. It also has the following operating divisions, units or components:

- Environment;
- Health and Safety;
- Infrastructure;
- Archaeology and Historic Conservation;
- Use permits;
- Constructability and Energy and Building Codes;
- Variations;
- Reconsideration of Final Determinations;
- Environmental Compliance Evaluation Division and
- Division of Professional Regulation.

Law 161-2009, as amended, transferred to the OGPe the faculty to assesses the environmental compliance of all actions subject to environmental impact analysis under section 4(B)3 of the "Puerto Rico Environmental Public Policy Act Act", Law 416 of 2004, as amended. The assessment is conducted by the Environmental Compliance Evaluation Division, composed of EQB staff assigned to the OGPe, according to Sections 3.1 and 3.2 of Law 161-2009, as amended, and following the EQB's regulations and standards. OGPe will also act as a proponent agency in relation to the environmental planning process, except in those cases where this power has been delegated to an AM with I to V Hierarchy (Law 161-2009, Section 8.5).¹⁴

Law 161-2009 (Section 2.4j), as amended, provides that OGPe may create any additional division, unit or component that deems necessary for the performance of its obligations. According to this provision, the Division of Professional Regulation was created. This Division was established with the approval, on August 28, 2014, of the Regulation No. 8514, "Rules for the Professional Regulation of the Permit Management Office".

OGPe's Division of Reconsideration of Final Determinations kept the administrative-adjudicative responsibilities from the Board of Appeals on Construction and Lot Subdivisions, created under the RPA's Organic Law. The Director of this Division is an Administrative Judge. Issues addressed by this Division include: technical aspects such as engineering calculations, planning, design and technical-legal aspects.

Each division has its own Permit Manager and staff from topic-related Commonwealth Agencies, who serve as technical experts (e.g. Department of Health staff evaluates Health and Safety related applications, while the DNER staff evaluates natural resources related applications, and EQB staff reviews applications for environmental effects, including the EIS review process). The Director of the Environmental Compliance Evaluation Division is responsible for evaluating EIS and other environmental documents, in compliance with section 4(B)3 of the Puerto Rico Environmental Public Policy Act.

Law 161-2009, as amended, also created the legal construct of the Authorized Professional (AP) and Authorized Inspectors (AI) (Chapter VII, Section 7.1). These entities are made up of certified professionals who have the authority to evaluate and grant ministerial permits (AP), and certain licenses and certifications (AI). Both

¹⁴ Section 8.5 of Law 161-2009 provides that Concerned Government Entities may also serve as proponent agencies in cases in which OGPe is not empowered to do so, if the power has not been delegated to an AM or if the concern Government Entity enters into an agreement with OGPe. Concerned Governmental Entities follow the same environmental planning process that will follow an AM.

OGPe and the PRPB oversee compliance by all AP and AI with all applicable laws and regulations.

Authorizes Professionals (AP)

AP are non-government permitting entities that can evaluate and make final determinations for some ministerial permits only. (See Appendix B: Table 1). AP are certified and regulated by the OGPe. (See Appendix A: Flowcharts F-1 and F-2).

According to Law 161-2009, as amended, Land Surveyors, Architects, Engineers, Geologists, Planners, Agronomists, or any licensed professional in construction-related fields can be an AP subject to compliance with the requirements established by OGPe through regulations, and must be trained according to the specifications from and certified by OGPe.

AP must receive skill-building training and certification by OGPe. Courses required for AP are administered by institutions approved by OGPe and must be accredited by the General Education Council. Courses include subjects pertaining to the application and interpretation of planning regulations, green design guidelines, or any other regulation relative to the authorities of the OGPe, as well as the Code of Ethics established by OGPe. AP must have at least five (5) years of experience, after having obtained their licenses or certifications and admitted or qualified into the practice of their respective profession in Puerto Rico.

No AP may issue a final determination or permit for a project in which they have participated in any phase of its design, or in which they have a direct or indirect personal or financial interest or when they are related to the applicant or the applicant's authorized representative by fourth-degree of consanguinity or second degree affinity. AP shall be subject to fines and penalties, as established in Law 161-2009 as amended, for infringing any provision thereof.

OGPe has direct supervision of the AP, while the PRPB will perform random audits on the permits issued by the latter. OGPe is authorized to apply disciplinary measures or start legal prosecution on AP when non-compliances or illegal acts are identified during or after the permitting process. If any AP's authorization to practice his/her profession in Puerto Rico should lapse for any reason, or if his/her authorization under Law 161-2009 should be suspended by OGPe, he/she shall be immediately barred from continuing to issue authorizations.

The following table contains a short description of the permits and certificates the AP are authorized to issue, and the circumstances under which they can do so. It should be noted that the AP must receive all relevant detailed plans, drawings (e.g. architectural, structural, etc.), or statements along with all applications.

Permits and certificates that can be issued by AP	
Occupancy permits (Use permits)	The proposed use and structure must conform to zoning specific parameters regarding use, height, lot area, density, occupancy area, gross floor area, yards (front, side and back), parking, and loading and unloading area. AP must obtain authorization from the Permit Manager of the OGPe's Archaeology and Historic Conservation Unit for any use permit concerning structure officially designated and included in the Historic Site and Zone Register of the PRPB.
Demolition permits	For demolition of buildings that do not contain neither lead nor asbestos; the building must not be registered or deemed historic; the applicant must present a recycling plan specifying the amount of debris to be generated and all alternatives regarding their management or disposal; and the demolition process must conform to specific zoning standards.
Construction and remodeling permits	The project must conform to specific zoning use, area, density, parking, and height parameters; the applicant must present a recycling plan, and the project must not be located in a FEMA designated flood-prone area, which are identified in FEMA's Flood Insurance Rate Maps (FIRM). If the project is located in a flood-prone area, the applicant must certify that it is located in a FEMA designated Special Flood Hazard Area in their FIRMs and specify the project's lower level elevation in relation to the mean sea level.
General permits (General Consolidated Permits, General Environmental Permits)	The applicant must submit the required documentation showing compliance with the following EQB's corresponding regulations (e.g. general permits, erosion control, water quality, air quality, solid waste, groundwater, farming, etc.).
Categorical Exclusions Certificates	For a project to qualify for a categorical exclusion waiver, it must be included in the EQB's Categorical Exclusion List. The AP simply makes sure that the type of the project under review appears on that list.

In cases where non-compliances are found, the OGPe, either through administrative measures (e.g. temporary cease-and-desist orders, closing orders, etc.) or by way of a Court Order from the Court of First Instance, can suspend or permanently detain works related to permits issued by the AP (See Appendix B: Table 2). All documents (plans, drawings, etc.) pertaining to permits issued by the AP are submitted to OGPe and the PRPB and audited randomly by the PRPB.

Authorized Inspectors (AI)

AI are any natural persons that have been duly certified and authorized by OGPe to conduct inspections and issue the corresponding certifications or documents required for construction works, land development, business operation and use permits in Puerto Rico. AI evaluate and issue the following ministerial certifications (See Appendix B: Table 1):

- Fire Prevention;

- Environmental Health;
- Renewable Energy Projects;
- Sowing;
- Domestic Waste Disposal; and
- Green Permits¹⁵.

Qualifications requirements for AI vary for each type of certification and are established and specified in Circular Letters issued by the OGPe. For AI to be certified by the OGPe, they must approve OGPe-regulated courses and examinations. Certifications issued by AI are subject to random compliance auditing by the PRPB. OGPe is authorized to apply disciplinary measures or start legal prosecution on AI when non-compliances or illegal acts are identified during or after the permitting process. In the event that an AI is no longer authorized to practice his/her profession in Puerto Rico for any reason, or has his/her authorization suspended by OGPe, he/she shall be barred from continuing to issue environmental health or fire prevention certificates or any other certification allowed. Any certification issued under such circumstances will be void.

In exercising its powers, OGPe (as well as the AP and AI) apply the JPR, which is a PRPB's regulation. However, OGPe does have powers to adopt additional regulations, which must be approved by the PRPB, except those emergency regulations, to be approved by the Governor. OGPe must ensure compliance with its own regulations, the regulations adopted by the PRPB related to construction and land use and furthermore, it must ensure compliance with all Commonwealth laws, ordinance, or regulation of any governmental body, regulating construction in Puerto Rico. Therefore, OGPe must have close coordination with the PRPB, DNER, EQB and other government agencies to comply with the environmental public policy and any other public policy on economic, social, and physical development of Puerto Rico.

Under these provisions, OGPe has adopted the following regulations:

- **2011 Puerto Rico Building Code, Reg. 7965 approved in 2010 and amended in 2012 by Reg. 8222**

This set of regulations states standards and requirements on all matters related to the construction of structures, expansion, alteration, repair, moving, removal, demolition, occupancy, equipment, use, height, area and maintenance, and signs and advertisements.

¹⁵ These are permits issued for buildings or designs that meet the prequalification parameters necessary to obtain a certification that meets green permit design guidelines to be established in the JPR.

- **Regulation for Adjudicative Procedures of the Permit Management Office (OGPe) Final Determinations Reconsideration Division, Reg. No. 8457 of 2014**

This regulation establishes the rules governing the procedures related to the submittal, process and granting of reconsideration filed at the OGPe's Final Determinations Reconsideration Division, according to Law 161-2009, as amended.

- **Rules for the Professional Regulation of the Permit Management Office. Reg. No. 8514 of 2014**

This regulation provides the rules governing OGPe's overseeing powers. It establishes the responsibilities of the Division of Professional Regulation, which includes: the certification of AP and AI, oversee their performance, establish the guidelines for their continuing education and to establish a register of AI and AP in Puerto Rico. This Division oversees compliance of final determinations, permits and certificates issued by AI and AP.

c) The Environmental Quality Board (PRCMP pp. 157-158)

The PRCMP identified two EQB responsibilities of particular importance in guiding public and private development in coastal areas: EIS, and pollution control.

Environmental Impact Statements (EIS)

The PRCMP (p. 157) indicates that "Law No. 9 requires the preparation of an EIS in connection with environmental actions significantly affecting the environment. Responsibility for administering this requirement is assigned to the EQB".

Law 161-2009 as amended did not change EQB's responsibilities for administering the "Environmental Public Policy Act". However, with the approval of Law 161-2009 as amended, the EQB no longer evaluates and issues final determinations on EIS environmental compliance. This responsibility was transferred to the OGPe.

However, the EQB remains responsible for overseeing compliance with the Commonwealth's environmental policy established in the Environmental Public Policy Act, for all public and private property developments.

The EQB's Regulations for the Evaluation and Processing of Environmental Documents, Reg. 7948, in Rule 129 (Monitoring Compliance with this Regulation) provides that the EQB shall supervise the strict observance of the OGPe with this Regulation and the Environmental Public Policy Act. These EQB Regulations also impose obligations to OGPe regarding its role with the EQB (Rule 130), stipulating that the Director of OGPe's Environmental Compliance Division shall submit a

monthly report to the EQB including data related to the type of project by environmental document reviewed. In addition, OGPe must also submit an annual report with all data submitted in the monthly reports. This data will be available to the general public in an annual report prepared by the EQB titled "The State of the Environment", which is required by the "Environmental Public Policy Act", and presented to the Legislature and the Governor.

The EQB, also remains responsible for air and water pollution control plans and quality standards, solid waste control, and enforcement of pollution control laws just as before.

d) The Department of Natural and Environmental Resources (DNER) (pp 158-160)

Law 161-2009 as amended, does not changed DNER's statutory responsibilities (PRCMP, pp. 158-160). The DNER also continues to participate in the development guidance process for dredging or construction of piers and other structures in navigable waters.

However, following provisions of Law 161-2009 as amended, and Law No. 23-1972 as amended (DNER's Organic Law), OGPe and the DNER entered into an agreement, so as to permits related to the movement of earth's crust materials can be filed at the OGPe. Prior to Law 161-2009 the DNER issued all permits related to the extraction of sand and earth's crust materials. With the approval of Law 161-2009, the JPR and the resulting amendments to the DNER's "Regulations to Govern the Extraction of Earth's Crust Materials" Reg. No. 6916, the evaluations and final determinations of these permits were divided between DNER and the OGPe.

OGPe is responsible for permits related to construction and development activities known as "simple permits" and "formal permits" according to the provisions indicated in Chapter 43 of the JPR "Extraction, excavation, removal and dredging of the components of the earth's crust". These permits include: formal permits for the extraction of earth's crust material, Incidental permits for projects approved by OGPE or an AM, simple permits and Incidental permits for agricultural practices.

While according to the DNER's Regulation No. 6916, the DNER is responsible for evaluating and making final determinations on:

- Incidental permits for activities that do not need OGPe's approval,
- Maintenance of infrastructure,
- Export permits, and
- Permits for cleaning water bodies.

e) Changes to the Development Control Process of OGPe and PRPB (PRCMP, pp. 155-157)

The PRCMP (1978) included the following development control process of RPA and the PRPB.

PRCZMP (1978), Chapter Four, The development control process of RPA and the PRPB page 155-156

Statutes, regulations and PRPB resolutions establish the principal development control process applicable in Puerto Rico. In zones areas, all development requires a building permit from the RPA, subject to that:

1. The proposed project must comply with the applicable zoning, and
2. The project needs to demonstrate that it presents no risk of causing significant environmental impact, according to the PRPB resolution No. JPI-12-1.

If the project complies with zoning, but is not classified as environmentally insignificant, the RPA submits the project to the PRPB for review before deciding to grant or deny the permit. (The PRPB, if appropriate, seeks advice from the EQB or DNER before making its recommendation to the RPA.) If the project does not comply with zoning because of the proposed use or density, no permit can be granted unless the project is reviewed and approved by the PRPB. In addition, urbanization in zoned areas required PRPB approval under regulations No. 3 and No. 9.

In unzoned areas, RPA has waived building permits pursuant to the RPA organic Act, for many types of development. Most large projects, however are subject to permit requirements or are otherwise controlled. Urbanization (more than 11 lots) are subject to discretionary review and approval by the PRPB, pursuant to Resolution P-139. In reviewing these projects, the PRPB determines compliance with the urban expansion plans that have been approved in principle by the majority of the municipalities, and also the PRCZMP as the coastal element of the Island-wide Land Use Plan. Simple subdivisions (less than 11 lots) were subject to discretionary subdivision review by RPA pursuant to Reg. No. 11.

Industrial projects, commercial centers, hotels and touristic villas or trailer camps require a building permit from the RPA. But, the RPA has to submit these projects to the PRPB for review.

Under the new permit process, the principal development control process remains the same for zoned areas: a project must comply with the applicable zoning and needs to demonstrate that it does not present a significant environmental impact.

However, Section 8.5 of Law 161-2009, as amended, states that all environmental review determinations (EIS, Environmental Assessment (EA) and Categorical Exclusions (CE)) are now reviewable and independent of the permit review process, and the agencies now have a 30 day period to comment during the permit review process.

If a proposed project has no environmental impact, a "Certification of Categorical Exclusion" is issued, according to the "Categorical Exclusion Resolution" promulgated by the EQB. This certification may be issued by the OGPe

or an AP, if: (1) it has been determined that the proposed action does not involve a significant environmental impact and also (2) if it complies with the established zoning. However, the action shall comply with all relevant planning and environmental laws and regulations.

If a potential environmental impact is suspected, an EA must be prepared and submitted to the OGPe, who evaluates it and makes the appropriate determination. If OGPe determines that there is no environmental impact, a Determination of No Environmental Impact (DNEI) is issued within 15 days for urban areas and 30 days for non-urban areas.

If the project complies with the applicable zoning, and is determined to have no environmental impact through a categorical exclusion or a DNEI, OGPe, the AP, or an AM, as applicable, may evaluate and make the final determination.

Depending on the proposed action, Commonwealth agencies, collectively known in Law 161-2009 as the "Concerned Government Entities"¹⁶, the AM or the OGPe (through the Permit Managers, the Director of Environmental Compliance Division, or the Permit Officers) will issue a "recommendation" indicating compliance or non-compliance with a proposed action with the laws and regulations under their respective jurisdictions. Recommendations issued by the DNER and the EQB will be binding (Law 161-2009, Section 1.5(72)).

For projects where significant environmental impact is expected, an EIS must be prepared following the rules established in the EQB's "Regulation for the Evaluation and Processing of Environmental Documents" and the JPR (Chapter 13). OGPe acts as the proposing agency and refers all documentation to its Environmental Compliance Evaluation Division within OGPe for review. Findings from this Division are then referred to the Executive Director of OGPe for final determination of environmental compliance. Once this step has been completed, the EQB implements the public participation process established in its regulations.

When the proponent agency is an AM, the EIS is also sent to the OGPe's Environmental Compliance Evaluation Division for review. Findings from this Division are then referred to the OGPe's Executive Director for final determination of environmental compliance. Once environmental compliance has been determined by the Director of OGPe, the project documentation is then sent to

¹⁶ "Concerned Government Entities" is the term used to collectively refer to the: PRPB, EQB, Public Service Commission, Puerto Rico Power Authority, Puerto Rico Highways Authority, DNER, Puerto Rico Aqueduct and Sewer Authority, the Telecommunications Regulatory Board, the Department of Transportation and Public Works, the Puerto Rico Trade and Export Company, PR Industrial Development Company, Puerto Rico Tourism Company, the Institute of Puertorrican Culture, the PR Department of Agriculture, the Department of Health, the Firefighters Department Police department, Hosing Department, Sports and Recreation Department, Solid Waste Authority, the Department of Education, the Ports Authority, among other agencies.

the AM for final determination regarding permit issuance.¹⁷ If the proponent agency is a Concern Government Entity, the environmental review process follows the same procedure as the AM. In summary, in all instances the final determination of the environmental review process is made by the OGP's Executive Director. All environmental compliance determinations are reviewable and independent of the permit issuance process.

If the project complies with the applicable zoning, but has a significant environmental impact, the construction permit may be denied by the OGP or AM. An AM may deny a permit after considering the recommendations of a Concerned Government Entity.

On the other hand, if the project does not comply with the applicable zoning, the permit will not be issued unless it is revised and approved by the PRPB using mechanisms such as rezoning or site consultations. It also needs to comply with Section 4(b) 3 of the "Environmental Public Policy Act".

As previously indicated, the PRPB is the single state agency authorized to make decisions on site consultations (Law 161-2009, Section 2.5). While rezoning can be carried out by the PRPB and also an AM with hierarchies from III to V, on lots not exceeding 2,000 square meters (m²) only in urban or developable lands (JPR, Chapter 35).

Law 161-2009, as amended, categorizes development and construction permits as ministerial and discretionary, and identifies the entities that can issue such permits, as described below:

- **Ministerial Permits-** Are those permits that involve little or no personal judgment to make a final determination and are issued by the OGP, AP, and AM with I to V hierarchy, as applicable. Public notice and opportunity for comments is not provided during the review and adjudication of these permits, since they are ministerial in nature (See Appendix B: Table 3); this aspect has been kept unchanged from the previous process involving the RPA.

Section 6.2.4 of the JPR indicates that for a permit to be considered of ministerial nature, it shall fully comply with the following requirements: zoning, uses, height, lot size, density, area of occupation, gross floor area, yards (front, side and back), parking spaces and loading and unloading area.

Ministerial permits include: use permits, demolition permits, construction permits, remodeling permit, urbanization by way of exception, Green permits

¹⁷ Once this step has been completed, the EQB, if deemed necessary, may implement the public participation process established in its "Regulation for the Evaluation and Processing of Environmental Documents".

and PyMES. PyMES are permit applications for small and medium-sized businesses of 50 employees or less, and are reviewed and adjudicated by the Permit Managers in OGPe (JPR, Chapter 9, Rule 9.6). Green Permits need prior certification issued by the AP, AI or AM and are later reviewed and adjudicated by OGPe (JPR, Chapter 11, Rule 11.2). Green Permits are ministerial construction permits that are issued for projects designed for energy efficiency, green house gases reduction, extend the lifespan of built structures, reduce stormwater, reduce water consumption, etc. These permits are issued for new construction projects, as well as for retrofitting projects.

Ministerial permits do not require public hearings nor public comments (See Appendix B: Table 3).¹⁸ Nonetheless, Law 161-2009, as amended, require applicants for demolition and construction permits to raise a sign displaying the project's information and the OGPe's contact information in front of the property where works will be held; this must be done within two days after submitting the application.

- **Discretionary Permits-** Permits that are discretionary in nature are reviewed by the Director of OGPe, the PRPB, or the AM (with hierarchies III-V). Discretionary permits include: Exemptions, Variances and Site Consultations.
 - Exemptions are defined in the JPR as an "Authorization to use a property for a use that the existing regulations of an area or district support and tolerate, subject to compliance with the requirements or conditions established in the applicable regulations to authorize the proposed use". Exemptions are reviewed and adjudicated by the PRPB and the OGPe.
 - Variances are authorizations to subdivide or develop a property using different parameters than those contained in existing regulations; and that are only granted to avoid imposing a hardship upon a property, that due to extraordinary circumstances, the strict application of the regulation would result in the confiscation of the property. Chapter 26 of the JPR describes instances in which applications for variances are reviewable. Variances require public hearings. In addition, an AM with hierarchies III to V can evaluate and make determinations on use and construction variances on urban or developable land with a surface area not greater than 4,000 square meters, according to Law 81-1991 as amended.

¹⁸ This process was left unchanged from all previous permitting system, because prior to the approval of these laws, RPA permit issuance procedures did not provided a public comment procedure for ministerial permits. It merely required applicants to post a sign in front of the property where construction would take place.

- Site consultations and rezoning applications, as previously indicated, are reviewed by the PRPB and by the AM in specific instances. The OGPe does not consider for review, proposed private projects in unzoned areas located in the coastal zone (JPR, Chapter 25, Section 25.2.12 and Chapter 30, Section 30.2.3). Since proposed discretionary projects located in the coastal zone must be in accordance with regulations and policies adopted by the PRCMP, these are reviewed and adjudicated by the PRPB, as was done prior to Law 161-2009, and not by the AM or the OGPe.

In unzoned lands within the Commonwealth's coastal zone, the responsibility for reviewing and make final determinations on development, construction, and use permits lies exclusively on the PRPB. According to the JPR, OGPe cannot evaluate or make final determinations on private projects located in unzoned areas within the coastal zone (JPR Section 25.2.12(i)).

In general, all construction and development projects in the coastal zone require a building permit. The type of permit, its nature, and the entities that evaluate and make the final determinations are presented and discussed in Table 1 in Appendix A. Flowcharts F-1, F-2, and F-4 show permit review and adjudication process, as well as related timeframes, for OGPe, AP, and AM, respectively.

f) Changes to the appeals process (PRCMP pp. 156-157)

The PRCMP (1978) included the following appeals process for final decisions made by the RPA and the PRPB.

PRCZMP (1978), Chapter Four, Appealing Process (p. 156-157)

RPA decisions: Section 30 of the RPA Organic Act specifies decisions appealable to the Board of Appeals on Construction and Subdivisions. Decisions of the Board of Appeals are judicially reviewable. RPA decisions on housing development cases are judicially reviewable (on matters of law only). RPA decisions taken pursuant to PRPB delegations were reviewed following PRPB appealing process, described as follows.

PRPB decisions: Decisions disapproving public works projects are appealable to the Governor, as established to the Superior Court of Puerto Rico, after seeking reconsideration by the Board.

The appealing process of control decisions remained unchanged for the PRPB's, but was modified for the newly created entities, as described below.

Law 161-2009 as amended, kept the administrative-adjudicative responsibilities from the Board of Appeals on Construction and Lot Subdivisions, created under

the RPA's Organic Law, under the newly created the OGPe's Division of Reconsideration of Final Determinations. This Law also empowers the OGPe to perform oversight tasks to ensure that the new permit entities continue to implement the underlying Commonwealth's environmental and development policies. Judicial review of permitting decisions continues to be provided by the Court of First Instance, the Court of Appeals, and the Puerto Rico Supreme Court. Detailed appellate process is presented in Table 2 in Appendix B.

A Commonwealth agency, which includes the OGPe itself, dependency, or instrumentality representing the public interest or a private person (whether natural or juridical) with or without proprietary interest, or neighbor, owner or tenant of an adjacent property, whose personal interest is adversely or substantially affected by ministerial permits issued by the OGPe, AP, or an AM, may file a complaint alleging a violation of a law or regulation before the OGPe (JPR, Volume 3). OGPe is the government entity authorized, by its own initiative or when an appeal is filed, to overturn permits issued by itself, an AM, AP or AI. OGPe may intervene in any permit issuance process that is non-compliant under applicable laws and regulations through cease-and-desist orders, fines, or other administrative measures (Law 161-2009, as amended, Sections 9.10 and 14.1). OGPe, by way of a Court Order from the Court of First Instance, can suspend or permanently detain works related to permits issued by these entities after an appealed has been sought by an adversely affected party.

An immediate closing order issued by the OGPe to a commercial establishment is to be reviewable before the Court of First Instance. The OGPe is granted jurisdiction to employ this procedure in AM with permit offices or equivalent offices when requested by the latter. OGPe may enter, access, and examine any property in order to inspect or ascertain compliance with applicable laws and regulations. In addition, OGPe is authorized to issue an order to the corresponding public utility service agencies to require the suspension of their services to any property or structure which violates the provisions of Law 161-2009 as amended, or of any regulations or laws that regulate construction and use of buildings and properties in Puerto Rico.

Any party adversely affected by an action, final determination or resolution by OGPe, the AM, or an AP, may resort to the OGPe's Final Determinations Reconsideration Division, and request an administrative review. The administrative review process is pursuant with the Puerto Rico Uniform Administrative Procedures Act, Law 170 of 1988, as amended.

The actions, final determinations or resolutions issued by any of these entities will be upheld if they are based upon substantial evidence included in the

administrative record. Only findings of fact and conclusions of law shall be reviewable in all their aspects by OGPe, the Court of Appeals, and the Supreme Court. Any party that is adversely affected by a resolution from OGPe may file a motion for reconsideration. The adversely affected party can also appeal OGPe's determinations (regarding both ministerial and discretionary actions) to the Court of Appeals and the Supreme Court (Law 161-2009, Section 13.1). (See Appendix A: **Flowchart F-3** and Appendix B: Table 2).

2. CHANGES TO THE LINKAGES ASSURING CONSISTENT ACTION IN GUIDING DEVELOPMENT (PRCMP PP. 160-163)

The PRCMP (1978) included the following linkages to assure consistent actions in guiding development in terms of Program's policies and plans, regulations, and the permit process.

PRCZMP (1978), Chapter Four, Linkages assuring consistent action in guiding development (P. 161)

- a. Linkages at the level of policies and plans (p. 161). Policy coordination between the PRPB and the RPA is assured because the RPA's principal duty is to administer regulations adopted by the Board. RPA's own regulations require approval by the Board. And RPA is required, by statute, as already indicated to exercise delegated responsibilities consistently with Board plans and policies, as well as to maintain close liaison with the Board, EQB and DNR.
- b. Linkages at the regulatory level (p. 162) - RPA- Regulations adopted by the RPA do not become effective until approved by the PRPB.
- c. Linkages at the level of permitting and project review (p. 162). Private projects subject to development controls are reviewed individually by the PRPB or the RPA. These projects are often referred to the DNER, the EQB and other corresponding agencies for comments or consultations. RPA has the power and duty to establish close coordination with the PRPB, the EQB and the DNER.

Given that the OGPe has replaced the RPA, the approval of Law 161-2009, as amended, did not alter the institutional linkage landscape regarding development guidance in Puerto Rico, but rather it established some procedural changes as to how these linkages are developed. The OGPe's principal duty is still to administer regulations adopted by the PRPB, and the adoption of its own regulations is still contingent upon the approval of the latter (Law 161-2009 Section 2.3(u) and Section 2.8 (b)). The OGPe must still maintain close liaison with the DNER and EQB. Private projects subject to development controls are still reviewed individually by the OGPe or the PRPB, and are still referred to other corresponding agencies (including the DNER and the EQB) for comments or consultations, which are binding, according to Section 1.5(72) of Law 161-2009, as amended.

Linkages at the level of policies and plans (PRCMP, p. 161)

Law 161-2009 as amended, did not change PRPB, EQB and DNER's linkages at the level of policies and plans. It did substituted the RPA by the OGPE, but the linkages remain unchanged.

Interagency coordination between the PRPB and OGPe is assured, because the latter's primary responsibility is to administer the regulations adopted by the PRPB. This includes regulations covering the scope of practice of the AP and AI. In addition, the regulations adopted by the OGPe need the PRPB's approval (Section 2.8 of Law 161-2009, as amended).

OGPe is required to exercise delegated responsibilities consistent and within the PRPB's plans, policies, and regulations (Section 2.3, Law 161-2009, as amended). Law 161-2009 as amended, provides that any land subdivision or the registration or approval of any land subdivision shall be conducted only when and to the extent that such land subdivision complies with the recommendations arising from the PRPB's Integral Development Plan for Puerto Rico, the Land Use Plans, the Four-Year Investment Program, and such others, as may be implemented to that effect (Section 9.1). Since the PRCMP is the coastal component of Puerto Rico's Land Use Plan (PRLUP), the OGPe's regulations and determinations must be consistent with its policies. OGPe must still keep a close liaison with the PRPB, the EQB, the DNER, and the AM.

Similarly, Law 161-2009 as amended required OGPe to keep close coordination with other government agencies, such as EQB and DNER. As previously indicated this law also states that the recommendations issued by the DNER and EQB during the evaluation process of construction and development permits, shall be binding.

On the other hand, with respect to AMs' municipal land use plans, the PRPB's Organic Act (Section 14) provides that the agency may adopt land use plans prepared either by the Board or by other governmental entities. This Section also provides that the PRPB shall advise, coordinate, and assist these entities in the preparation of the methodology to be used in the formulation of these land-use plans so that they be consistent with the Commonwealth's development policies and strategies adopted by the PRPB. According to this, and Section 13.004 of Law 81-1991, the PRPB promulgated Regulation No. 24 to guide the form and content of the municipal land use plans and the transfer and administration of hierarchies. Law 81-1991 also indicates that municipal land use plans shall be compatible and harmonize with the public policies and with the general plans for Puerto Rico (Section 13.002 of Law 81-1991). Law 81-1991 also provides that "the ordinance plans shall be in conformity with all the public policies, laws, regulations or

other documents of the central government related to territorial ordinance and construction” (Section 13.011). It also states that Commonwealth Government agencies must maintain sufficient communication with municipalities and should inform, from an initial planning phase, the plans, projects, programs and activities that may be of interest for the municipality in order to achieve, as far as possible, coordination and integration of activities with municipal plans, in order to avoid jurisdictional conflicts (Section 14.001, Law 81-1991).

The PRPB oversees the municipal land use plans development process through various mandatory revision phases and at least two public hearings (Section 13.008, Law 81-1991). In addition, the implementation of these plans is contingent upon the PRPB's adoption, and the Governor's approval, according to Law 81-1991.

The PRPB is in the process of adopting the PRLUP according to its Organic Act and Law No. 550 of 2004 known as “Land Use Plan of the Commonwealth of Puerto Rico Act”. It was approved to provide, among other things, the substantive and procedural requirements for the preparation, consideration, approval and implementation of the PRLUP.¹⁹ Section 13 of Law 550-2004, “Precedence of the Plan” provides that “The regional plans and the municipal territorial ordinance plans established under the Autonomous Municipalities Act, as amended, must harmonize and be compatible with the public policy and with the provisions of the Land-Use Plans of Puerto Rico whose preparation and implementation are required by virtue of this Act.” It also provides that the PRPB may revise the municipal land use plans in order to ensure compliance with PRLUP (Section 13, Law 550-2004).

Changes at the linkages at the regulatory level (p. 161-162)

At the regulatory level, all four agencies responsible for development guidance may adopt or amend regulations. Linkages at the regulatory level remained unaltered, being the only variation is the replacement of the RPA by the OGPe.

PRPB: The PRPB's land use plans (including the PRCMP as the coastal element of the PRLUP) continue to be the basis for zoning maps, including those prepared by the coastal municipalities. The PRPB's regulations and amendments become effective only when signed by the Governor. Zoning regulations that are part of the municipal land use plans, follow the same procedure: to become formally effective, they must also be adopted by the PRPB and signed by the Governor (Section 13.019, Law 81-1991). In addition, Section 13.020 of Law 81-1991, as amended, provides that “the regulations of the Planning Board or the

¹⁹ A draft of the Commonwealth-wide Land Use Plan (PRLUP) went to public hearing in February 2015.

Regulations and Permits Administration [now the OGPe] shall continue in effect and shall apply to the municipalities” even after the approval of this law.

OGPe: As was the case with the RPA before the approval of Law 161-2009, as amended, regulations adopted by the OGPe do not become effective until approval by the PRPB (Section 2.8, Law 161-2009 as amended). Notwithstanding some procedural changes, linkages among development controlling agencies remains unaltered.

EQB and DNER: Neither Law 81- 1991, as amended, nor Law 161-2009, as amended, resulted in changes to the EQB's and the DNER's linkages at the regulatory level.

The EQB and the DNER's regulations do not require formal approval by other agencies. Nevertheless, they must go through public hearings following the Puerto Rico Uniform Administrative Procedures Act, which provides Commonwealth agencies and the general public the opportunity to review and comments.

On the other hand, following the provisions of Law 161-2009, as amended, the DNER and the EQB amended their regulations associated to development and construction in order to update them according to the JPR provisions. These are the DNER's "Regulations to Govern the Extraction of Earth's Crust Materials", Reg. No. 6916, and the EQB's "Regulations for the Evaluation and Processing of Environmental Documents", Reg. 7948.

The DNER's Regulation No. 6919 was amended to specify which permits are going to be evaluated and granted by the DNER and which are to be granted by the OGPe according to the JPR. While the EQB's Regulation No. 7948 establishes the requirements of format and content that the OGPe and other proposing agencies must follow in developing the environmental documents according to the Puerto Rico Environmental Public Policy Act.

Linkages at the permitting and project review (pp 162-163).

Statutory provisions require public and private projects to be in compliance with the PRPB's plans and programs. Both public and private projects must first meet the zoning criteria established in the PRPB's plans or those prepared by the coastal municipalities as approved by the Board. Then, additional elements are reviewed by the OGPe or the coastal municipalities in which the permit issuance role has been transferred, as explained in the section on the "Development Control Process of OGPe and the PRPB".

Review and issuance of ministerial permits is conducted by the OGPe, AP, and AM, when applicable. Discretionary permitting and review is performed by the OGPe, the PRPB, or the AM (with hierarchies I-V), when applicable. However, the PRPB, is responsible for auditing final determinations and permits issued by the OGPe and the AP and certifications issued by AI, within a period not exceeding ninety (90) days from the date of issue according to Law 161-2009, as amended (Section 2.3C).

In those cases in which the AM has been granted Hierarchy V status, all petitions for authorizations or permits, including those reserved to the PRPB or the OGPe, shall be filed in the AM's Permits Office. For projects whose power for consideration belong to the central agencies, the AM's Permits Office shall forward the file to the PRPB or the OGPe after examining it, depending on the jurisdiction of the proposed action. This must occur within a period of ten (10) days after the petition was filed.

Law 81-1991 also mandates that the AM must keep the PRPB informed about projects being evaluated and final determinations (Section 13.015). For urbanization permits delegated to the AM, Law 81-1991 requires the AM to submit to the PRPB a copy of the complete file of the permit and to keep and update it throughout the evaluation and decision making process. For authorizations or permits other than development projects, the AM shall submit to the PRPB all information on every decision rendered.

In addition, if deemed necessary, the PRPB can request the Governor to suspend or revoke any or all powers transferred to the AM. The Delegation Agreements by which hierarchies are transferred by the PRPB or the OGPe to the AM, must establish coordination procedures to ensure that permits are resolved in accordance with existing central government policies. These agreements also clearly specify the consequences for non-compliance and the powers, duties, functions, or activities that have been delegated to the AM that could be reversed to the delegating agency. (Section 13.015, Law 81-1991 and Section 18.14 of Reg. 24).

Furthermore, the OGPe and the PRPB must maintain close liaison with the DNER, the EQB, and other concerned agencies during the permitting and project review process. Comments or recommendations stemming from these agencies regarding any proposed action that is within its regulatory range remains binding (Law 161-2009-Section 1.5(72)).²⁰

²⁰ Law 161-2009 as amended Section 1.5(72) defines recommendations as-"A written communication, nonbinding issued by a Concerned Governmental Entity, Autonomous Municipality, permit Manager, Director of

Law 161-2009 does not changed the required Federal funded project's clearance conducted by the PRPB, nor the federal consistency project review process by the PRPB.

Regarding the EQB, linkages with the OGPe at the regulatory level remains unaltered, but reviewing procedures differs from previous arrangements with the RPA. With the approval of Law 161-2009 as amended and the JPR, Environmental Consolidated Permits can be reviewed and issued by the OGPe and AP. In addition, OGPE can assess and make final determinations on EIS following the JPR and EQB's policies and associated regulations. In both cases, as previously indicated, recommendations regarding any proposed action stemming from the EQB remain binding (Law 161-2009, as amended, Section 1.5 (72)).

IDENTIFICATION OF ENFORCEABLE PRCMP POLICIES THAT WERE ADDED OR MODIFIED

Law 161-2009, as amended, and its associated regulations, did not added or modified the PRCMP enforceable policies. As previously explained, these laws and regulations did result in changes to the PRCMP authorities and organization.

REASONS FOR THE CHANGES TO THE PUERTO RICO PERMIT PROCESS AND DOCUMENTATION OF OPPORTUNITIES FOR PUBLIC PARTICIPATION

Puerto Rico's Legislative Assembly determined that the procedures for evaluating and granting permits were affecting the Commonwealth's overall competitiveness, as well as the opportunities for socio-economic development and attracting new investment. The Commonwealth's government recognized that urgent action was needed to design new alternatives to address the shortcomings with the permitting process. This resulted in the approval of Law 161, the Puerto Rico Permit Process Reform Act of 2009, its subsequent amendments, and its forthcoming implementing regulations.

IDENTIFICATION OF THE PRCMP APPROVAL FINDINGS

Environmental Compliance Division and Permit Officer, as applicable, on a proposed action exclusively indicating compliance or otherwise of such action with the laws and regulations that are applicable under its jurisdiction, and shall not constitute an authorization for the construction of the work. Recommendations issued by the Department of Natural and Environmental Resources, Environmental Quality Board and the Institute of Puerto Rican Culture will be binding."

Changes to coastal zone management programs must show that the program would continue to meet the requirements for approval as provided under Section 306(d) of the CZMA, and its implementing regulations at 15 CFR 923. The elements for program approval are addressed in the regulations in–

Subpart B – Uses Subject to Management

Subpart C – Special Management Areas

Subpart D – Boundaries

Subpart E – Authorities and Organization, and

Subpart F – Coordination, Public Involvement, and National Interest.

The enactment of Law 161-2009, as amended, and its regulations resulted in changes solely on Subpart E – Authorities and Organization, but the changes still allow the PRCMP to meet the minimum criteria for program approval.

Subpart E of the CZMP regulations require that state coastal programs have the authorities and organizational structure needed for enforcing the policies which guide the management of the uses and areas identified in its management program. The essential requirement is that the State has the legal authority, organization and capacity to implement the management program and ensure compliance with the Program's policies.

Resulting changes in the PRCMP approval findings made by the Assistant Administrator, are discussed in the following section.

(A) The Commonwealth is organized to implement the PRCMP and has the authorities necessary to do so (Approval Findings made by the Assistant Administrator, p. 20).

The PRCMP remains the coastal element of the Islandwide Land Use Plan. As when the PRCMP (1978) was approved, the authority to plan for and regulate activities in the coastal zone is derived from the PRPB's Organic Act and the DNER's Organic Act.

On other hand, although Law 161-2009, as amended, repealed the RPA, all the agency's functions and duties were transferred to the OGPe, the newly created entity, administratively attached to the PRPB (Law 161-2009, Section 2.1).

Albeit changes previously described, the final authority to plan for and regulate activities in the coastal zone falls in the PRPB and the DNER. As all Commonwealth agencies must be consistent with the PRCMP, the PRBP, the OGPe, the AM, the

EQB and the DNER must be consistent with the PRCMP in carrying out its statutorily prescribed duties.

With the approval of Law 161-2009, as amended, PRCMP authorities were modified, resulting in the following statutes and regulations that define the agencies' duties as discussed in the PRCMP Approval Findings:

- (a) Puerto Rico Planning Board: Law 161-2009 did not result in changes to the PRPB's Organic Act, Law No. 75 of June 24, 1975, as amended. However, in addition to the PRPB's Organic Act, the agency implements Chapters 13 (Territorial Ordinance) and 14 (Delegation of Legal Authority) of Law 81- 1991, as amended.
- (b) OGPe: Law 61-2009, as amended, replaced the RPA's Organic Act. The RPA's Organic Act made reference to other Laws under which the agency had certain functions and duties. These were assigned to the OGPe with the transference of the RPA's functions and duties. These acts were included in the PRCMP and did not change with the approval of Law 161-2009.

Law 161-2009 amended sections of Act 374 of May 14, 1949 as amended and Act No. 135 of June 15, 1967 as amended to establish procedural changes.

- Act No. 374 of May 14, 1949, as amended (governing historic and tourist zones). Law 161-2009 amended sections 5 and 6 of Act 374-1949. Section 5 was amended to direct applicants, whose development permit has been denied and wish to appeal, to OGPe within a term of twenty (20) days as of the date notice is served. Section 6 established that no action may be implemented in an old or historic zone or in a Tourist-Interest Zone without the previous approval of the PRPB or the OGPe, as the case may be.
- Act No. 135 of June 15, 1967 (Certification of Plans and Specifications Act). Law 161-2009 as amended, repealed Section 4 of Act No. 135-1967, to assign the process to report a violation of the certification plans approved by the RPA to the OGPe's Executive Director (Law 161-2009 as amended, Section 61).

Other laws to which the RPA's Organic Act made reference remained unchanged: Airport Zone Act, Law No. 92 of June 16, 1953; Act No. 89 of June 21, 1955, as amended (created the Institute of Puertorrican Culture); Act No. 3 of March 2, 1951 (buildings of historic value); Act No. 3 of September 27, 1961 (control of buildings in floodable areas); Act No. 168 of May 4, 1949 (Puerto Rico building regulations); Act No. 25 of June

8, 1962 (neighborhood facilities for urban development); Act No. 355 of December 22, 1999 (Uniform Signs and Advertisements Act of Puerto Rico)²¹ and Act No. 104 of June 25, 1958 (Condominiums Act)²²

- (c) EQB: Section 19.9 of Law 161-2009 amended Section 4 of the Public Environmental Policy Act, Law 416-2004 to provide that OGPe shall act as the proponent agency and as the body with competence over or acknowledged expertise in relation to any action which requires compliance with the provisions of this Section.
- (d) DNER: Law 161-2009 did not result in changes to DNER's Organic Act, Law 23-1972 nor the acts to which it refers. (See Approval Findings made by the Assistant Administrator, pp. 20-21).

With respect to regulations, the following were added to the PRCMP:

a) PRPB:

- Reg. No. 31, JPR. It repealed the following PRPB's regulations, whose content was included in its entirety into various chapters as previously described: Reg. No. 3, "Subdivision Regulation"; Reg. No. 4, "Zoning Regulation"; Reg. No. 12, "Regulation for the Certification of Construction Projects", and Reg. No. 17, "Planning Regulation for Coastal Zone and Access to Beaches".
- Reg. 8572, "Regulations to Govern the Audit of Final Determinations and Issued Permits".

b) DNER: DNER's regulations remain unchanged, except for the "Regulations to Govern the Extraction of Earth's Crust Materials", which was amended to provide that permits related to the movement of earth's crust's materials can be filed at the OGPe, as previously discussed.

c) EQB: The Approval Findings made by the Assistant Administrator lists the following three regulations that were not changed by Law 161-2009: Regulation for the Control of Solid Waste, Water Quality Standards Regulation and Regulation for the Control of Atmospheric Pollution. However, although not a result of this law, the EQB's "Regulations for the Evaluation and Processing of Environmental Documents" constitutes an additional Commonwealth authority to implement the PRCMP. It was originally approved in 1984 pursuant to the Puerto Rico's Environmental

²¹ This act repealed and substituted Act No. 427 of May 13, 1951 (sign control).

²² Amended and renamed by Law No. 103 of 2003 as the Condominiums Act.

Public Policy Act and subsequently amended to include provisions of Law 161-2009 as amended.

Listed in Appendix-B is a table showing the authorities (laws and regulations) that constituted the federally approved PCRMP prior to the passage of Law 161-2009, as amended, and the revised list of authorities that constitute the PRCMP as a result of the passage of Law 161-2009, as amended and its associated regulations. These are the authorities which now enable the PRPB, the DNER, the EQB, and OGPe to administer land and water uses, control development, resolve conflicts among competing uses, and to acquire appropriate interests in property.

MANAGEMENT TECHNIQUES OF THE PRCMP

The CZMA requires Puerto Rico to use one or more of three eligible management techniques to manage land and water uses within the Commonwealth [16 USC 1455(d)(11)]. Prior to the enactment of Law 161-2009, as amended, the PRCMP relied on Management Technique B – direct state land and water use planning and regulation. The basis for relying in this technique was that all land use decisions related to the coastal zone were made by Commonwealth agencies.

As in the Puerto Rico Program Approval findings made by the Assistant Administrator (pp. 22-23) all Commonwealth agencies still required by virtue of the adoption of the PRCMP as part of the Islandwide Land Use Plan, to be consistent with the PRCMP and any future refinements, plans or regulations. All planning and regulatory activities in the coastal zone remain consistent with PRCMP which takes precedence over municipal land use plans and their zoning ordinances. As previously indicated, the PRLUP takes precedence over any regional or municipal land use plan and the PRPB may revise those plans to ensure consistency with the PRLUP (Section 13, Law 550-2004).

On the other hand, although new entities were created with the approval of Law 161-2009 as amended, none has the absolute authority to regulate land and water uses in the coastal zone. As previously discussed, Law 81-1991 specifically states that the PRLUP takes precedence over municipal land use plans and the PRPB is responsible to ensure this when reviewing these plans. Municipal land use plans shall be compatible and harmonize with the public policies and with the general plans for Puerto Rico, as well as with the regional plans; and shall foster, in their drafting and adoption, a broad participation of the citizenry and of the concerned central government bodies (Section 13.002(a)). The PRPB regulates the content and the process to develop municipal land use plans through Regulation No. 24, and oversees their development process through various mandatory revision phases and public hearings. In addition, the implementation of these

plans is contingent upon the adoption by the PRPB and the Governor's approval, according to Law 81-1991.

Because policies regarding the coastal zone in Puerto Rico are enacted and adopted by the DNER and the PRPB, no determinations by the AP, AI or AM can supersede said policies. Furthermore, the PRPB through its regulations establishes the requirements and procedures that these newly created entities must follow in the exercise of their functions.

Permits review and issuance by the AM are also subject to the PRPB's Regulation No. 24, the JPR and the Commonwealth's policies and regulations. AM must sign an agreement with the PRPB, after Governor's approval, so that the powers to evaluate and issue some permits may be transferred (as hierarchies). The consequences of non-compliance can provide a financial penalty and the repeal of the agreement (Section 14.008, Law 81-1991). In such cases, the powers, duties, functions, responsibilities, or activities delegated shall revert to the PRPB or OGPe.

The repeal of the RPA, the delegation of permitting authority to AP and AI, and maintaining permit issuance delegations to AM, did result in changes to the Commonwealth's organization to implement the CZMP. However, the Commonwealth retains final authority over land use and water decisions through the PRPB and DNER, and permitting decisions through OGPe and/or the PRPB.

Even with the changes in these organization, the PRPB and the DNER are still enabled to administer land and water use regulations, control development, resolve conflicts among competing uses, and to acquire appropriate interests in property, adhering to the Program Approval Findings (pp. 22).

Consequently, the Commonwealth is still fully organized to implement the PRCMP through direct State control in accordance to Section 306 of the CZMA and is the final authority for making decisions in regards to land and water uses in the coastal zone. In addition, the Commonwealth authorities are still sufficiently broad to permit implementation of the PRCMP.

DOCUMENTATION OF OPPORTUNITIES PROVIDED TO PARTICIPATE IN THE DEVELOPMENT AND APPROVAL OF THE PROPOSED AMENDMENT AT THE STATE LEVEL

The Puerto Rico Legislature provided public participation opportunities prior to the approval of Law 161-2009 and its major amendment, Law 151-2013 as described below.

As part of the analysis of House Bill 1649 (subsequently approved as Law 161-2009) the Committee on Economic Development, Planning, Commerce, Industry, and Telecommunications held eleven public hearings, one executive hearing and one on-site inspection on the island of Culebra. Attendees included representatives from Puerto Rico Commonwealth agencies, municipalities, communities, professional associations, non-government organizations, academic institutions, and private citizens. Comments and written statements were received from different representatives that encompass the aforementioned sectors. No comment by any Federal Agency was recorded or documented during these hearings. Some of the most substantial comments presented during these hearings included:

Comments not addressed	Comments addressed
<ul style="list-style-type: none"> Delegating Exemption and Variance Consultations on a regional scale to the OGPe-adjunct Adjudicative Board, could render the PRPB powerless to implement provisions to guide development on Puerto Rico regarding its adjudicative role on variances in use and intensity. <p>Result: The Adjudicative Board was given authority over most discretionary affairs.</p>	<ul style="list-style-type: none"> Courses and instructional material for Authorized Professionals should be offered by their respective professional association.
<ul style="list-style-type: none"> Those appeals to determinations made by the Land Use Permit Review Board (LUPRB) should be taken to the Court of Appeals before going to the Supreme Court, so that public involvement would not be undermined. <p>Result: Appeals of decisions by the LUPRB were presented to the Supreme Court.</p>	<ul style="list-style-type: none"> Time limits for permit issuance should be explicitly stated in Law 161.
<ul style="list-style-type: none"> Approval of Law 161 should be postponed until the PRLUP has been fully developed and implemented. <p>Result: The PRLUP was not developed when the Law was approved.</p>	<ul style="list-style-type: none"> Geologists and Agronomists should be added among eligible professionals to be Authorized Professionals.

With respect to the JPR, the PRPB held five public hearings in five different locations (San Juan, Morovis, Ponce, Fajardo, and Aguadilla) on June 2010. A digital copy of the JPR was made available in PRPB's website on May 14, 2010, and the agency also created a webpage²³ to receive public comments. Attendees included representatives from Commonwealth agencies, municipalities, communities, professional associations, non-government organizations, and private citizens. Comments and written statements were also

²³ comentariosjp@jp.gobierno.pr

received from different representatives that encompass the aforementioned sectors.

On December 10, 2013, Law 161-2009 was significantly amended by Law 151-2013. The Puerto Rico Senate's Commission on Government, Government Efficiency, and Economic Innovation held three public hearings on October 23, 25 and 26, 2014 to discuss the Senate Bill 769 to substantially amend Law 161-2009. Attendees also included representatives from Commonwealth agencies, municipalities, communities, professional associations, non-government organizations, academic institutions, and private citizens. Comments and written statements were also received from different representatives that encompass the aforementioned sectors. In addition, the Puerto Rico House of Representatives' Commission on Socioeconomic Development and Planning requested explanatory memorandums by representatives from 19 entities stemming from these sectors. No comment by any Federal Agency was recorded or documented during these hearings.

Substantial comments presented during these hearings are categorized as follows:

Comments not addressed	Comments addressed
Subject: Agency roles, coordination, and organization	
<ul style="list-style-type: none"> • The law considerably reduces municipal autonomy. The law is an obstacle to the decentralization and regionalization of Puerto Rico. OGPe should not have the power to oversee municipal permit issuance nor be able to amend or repeal regulations on municipal permitting. • The decision making process is too centralized on the OGPe Director. • EQB should carry out the environmental review process. • OGPe should not be carrying out enforcement or oversight duties, since it would be enforcing or overseeing itself. 	<ul style="list-style-type: none"> • The PRPB should have the faculty to review and adjudicate land use consultations and zoning, not OGPe. Therefore the Adjudicative Board should be eliminated. • OGPe should be ascribed to the PRPB. • OIGPe has not performed as expected and should be eliminated and its tasks and faculties should be passed on to OGPe. • The LUPRB and the fine requirement for submitting appeals to the Supreme Court should be discarded. OGPe should have an internal administrative review process and appeals should be addressed in the Court of Appeals, prior to seeking audience with the Supreme Court. • All concerned agencies should have the necessary means and mechanisms to guarantee compliance with their applicable laws and regulations. • The role of the AP should be reviewed and reconsidered. Authorized Professional supervision is not adequately addressed in

	<p>the law.</p> <p>Result: The newly approved amendment resulted in the elimination of the Adjudicative Board, OIGPe, and the LUPRB. Review and issuance faculties regarding discretionary permits, as well as oversight and enforcement faculties, were now assigned to OGPe and the PRPB. OGPe was also required to provide administrative review processes regarding permit review and issuance. The law also states that each reviewing unit under OGPe will be composed of newly appointed Permit Managers and personnel from the corresponding concerned government entities. OGPe now has direct supervision of the AP, while the PRPB will perform random audits on the permits issued by the latter.</p>
<p>Permitting processes</p>	
<ul style="list-style-type: none"> • The required radius of project notification should be amplified. • The Court of Appeals should have a fixed time period to render their decisions. • The lack of communication between the permitting agency and the proponent should be addressed. • The permit review and issuance process for large commercial developments should be reviewed and reconsidered 	<ul style="list-style-type: none"> • All environmental review documents (EIS, EA and CE) and processes should be reviewable and independent of the permit review process. • Agencies should have a 30 day period to comment during the permit review process. <p>Result: All environmental review determinations (EIS, EA and CE) are now reviewable and independent of the permit review process, and the agencies now have a 30 day period to comment during the permit review process.</p>
<p>Types of permits to be issued</p>	
	<ul style="list-style-type: none"> • The definition of Land Use Variance should remain unaltered. • A single permit for small businesses should be created. <p>Result: Regarding Land Use Variances, there is now no distinction between subregional and supraregional projects.</p> <p>A Single Permit was created for small businesses in order to streamline this process</p>
<p>Public Participation</p>	
<ul style="list-style-type: none"> • An external review board should be established to review appeals and claims prior to resorting to the courts 	<ul style="list-style-type: none"> • The law limits public participation. • Finally, by conditioning all administrative review processes to the provisions of the

	<p>“Uniform Administrative Procedures Act”, PR Law 170 of 1988, as amended, any interested party could apply to intervene during the permit review process, while any adversely affected party can appeal final decisions with OGPe or the Court of Appeals, prior to seeking audience with the Puerto Rico Supreme Court.</p>
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This amendment to Law 161-2009 required substantial changes to the JPR. The PRPB held a public hearing in their offices at San Juan on June 27, 2014, to receive public input on the amendment to the JPR²⁴ and a new permit auditing regulation (*Regulations to Govern the Audit of Final Determinations and Issued Permits*). A digital copy of the draft JPR was made available to public comments on June 12, 2014, which was also available at the PRPB webpage to receive public comments. The JPR was finally approved by the Governor on March 2015.

²⁴ The JPR took effect on March 24, 2015.

APPENDIX A: FLOWCHARTS FOR THE NEW PUERTO RICO PERMIT SYSTEM

APPENDIX B: ANALYSIS TABLES FOR THE NEW PUERTO RICO PERMIT SYSTEM

APPENDIX C: FEDERALLY APPROVED AUTHORITIES OF THE PRCMP AND RELATIONSHIP TO LAW 161 AND ASSOCIATED REGULATIONS

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
LAWS					
Law No. 75 (1975)	PRPB Organic Act	PRPB	In original program doc and 306(d) Findings	NO	
Law No. 3 (1951)	Buildings of Historic value	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Law No. 3 (1961)	Control of buildings in floodable areas	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Law No. 4 (1967)	Watershed Law	DNER	In original program doc and 306(d) Findings	NO	
Law No. 6 (1954)	Mining Law	DNER	In original program doc and 306(d) Findings	NO	
Law No. 9 (1970)	Environmental Public Policy Act	EQB	In original program doc and 306(d) Findings	YES	The successor to it was amended By Law 161. Law 9 was repealed and replaced by Law 416 in 2004, but not added yet to the PRCMP.
Law No. 19 (1925)	Forest Plantings	DNER	In original program doc and 306(d) Findings	NO	
Law No. 21 (1969)	Litter	DNER	In original program doc and 306(d) Findings	NO	
Law No. 22 (1917)	Forestry Law	DNER	In original program doc and 306(d) Findings	NO	
Law No. 23 (1972)	DNER Organic Act	DNER	In original program doc and 306(d) Findings	NO	Amended in 1983; RPC approved in 1991.
Act No. 25 (1962)	Neighborhood facilities for urban development	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
Law No. 28 (1964)	Flooding (Acquisition of property)	DNER	In original program doc and 306(d) Findings	NO	
Law No. 38 (1930)	Forest Reserves	DNER	In original program doc and 306(d) Findings	NO	
Law No. 38 (1949)	Beach concessions		In original program and 306(d) Findings	NO	
Law No. 39 (1946)	Land acquisition	DNER	In original program doc and 306(d) Findings	NO	
Law No. 48 (1986)	Boating Safety, Bathing Beaches, etc.	DNER	Added via RPC in 1989	NO	
Law No. 66 (1975)	Conservation and Development of Culebra		In original program doc and 306(d) Findings	NO	
Law No. 70 (1976)	Wildlife		In original program doc and 306(d) Findings	NO	
Law No. 75 (1975)	PRPB Organic Act	PRPB	In original program doc and 306(d) Findings	NO	
Law No. 76 (1975)	RPA Organic Act	RPA	In original program doc and 306(d) Findings	Repealed	Repealed by Act 161 to create OGPe
Law No. 80 (1979)	Development of Floodable Areas	PRPB	Added via RPC in 1989	NO	
Law No. 82 (1979)	CODREMAR Organic Law	DRNA	Added via RPC in 1989	NO	
Law No. 83 (1936)	Fisheries Act	DNER	In original program doc and 306(d) Findings	NO	
Act No. 89 (1955)	Institute of PR Culture	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Act No. 92 (1953)	Airport Zone Act	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Act No. 104 (1958)	Horizontal Property Act	RPA	In original program doc and 306(d) Findings	YES	This Act was amended and renamed by Law

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
					No. 103 of 2003 as the Condominiums Act (not added yet to the PRCMP). The provisions related to the RPA are contained in Law 161.
Law No. 111 (1985)	Caves, Caverns and Sinkholes	DNER	Added via RPC in 1989	NO	
Law No. 115 (1974)	Penal Code for Squatters		In original program doc and 306(d) Findings	NO	
Law No. 128 (1977)	Energy Office		In original program doc and 306(d) Findings	NO	
Law No. 132 (1975)	Squatters		In original program doc and 306(d) Findings	NO	
Act No. 135 (1967)	Certification of plans and specifications	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Law No. 136 (1976)	New Water Law		In original program doc and 306(d) Findings	NO	
Law No. 144 (1976)	Extraction of materials from the earth's crust	DNER	In original program doc and 306(d) Findings	NO	
Law No. 149 (1945)	Nurseries	DNER	In original program doc and 306(d) Findings	NO	
Law No. 150 (1980)	Natural Heritage Program	DNER	Added via RPC in 1991	NO	
Law No. 151 (1968)	Law of Piers and Ports of 1968		In original program doc and 306(d) Findings	NO	
Act No. 168 (1949)	PR Building Regulations	RPA	In original program doc and 306(d) Findings	YES	This Act remains in effect, and the provisions related to the RPA are contained in Law 161.
Law No. 211 (1946)	Soil Conservation District		In original program doc and 306(d) Findings	NO	
Act No. 374 (1949)	Historic and tourist zones	RPA	In original program doc and 306(d)	YES	This Act remains in effect, and the

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
			Findings		provisions related to the RPA are contained in Law 161.
Law No. 374 (May 11, 1950)	Hunting Law	DNER	In original program doc and 306(d) Findings	NO	Law No. 374 (May 11, 1950) (cited elsewhere as 1949 or 1960)
Act No. 427 (1951)	Sign Control	RPA	In original program doc and 306(d) Findings	YES	This Act was repealed by Law No. 355 of 1999, The Uniform Signs and Advertisements Act of Puerto Rico (not added yet to the PRCMP). The provisions related to the RPA are contained in Law 161.
(1886)	Law of Ports for Island of PR		In original program doc and 306(d) Findings	NO	
	Civil Code of Puerto Rico 33 LPRA art 254		In original program doc and 306(d) Findings	NO	
REGULATIONS					
Regulation No. 3	Subdivision Regulation	PRPB	In original program doc and 306(d) Findings	YES	Repealed by the JPR, incorporated into Volume IV of the JPR and administered by OGPE.
Regulation No. 4	Zoning Regulation	PRPB	In original program doc and 306(d) Findings	YES	Repealed by the JPR. Incorporated as Chapter 17 of the JPR and administered by OGPE.
Regulation No. 7	Building Regulation	PRPB	In original program doc and 306(d) Findings	NO	Repealed. Substituted by OGPe's Reg. 7965, 2011 Puerto Rico Building Code, amended by Reg. 8222.
Regulation No. 9	Neighborhood facilities regulation	PRPB	In original program doc and 306(d) Findings	YES	This Reg. was repealed by Reg. 3 (not added yet to the PRCMP). Reg. No. 3 was

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
					repealed and incorporated into Volume IV of the JPR.
Regulation No. 11	Simple subdivision regulation	PRPB	In original program doc and 306(d) Findings	YES	This Reg. was repealed by Reg. 3 (not added yet to the PRCMP). Reg. No. 3 was repealed and incorporated into Volume IV of the JPR.
Regulation No. 12	Certification of construction projects	PRPB	In original program doc and 306(d) Findings	YES	Repealed by Law 161, incorporated as Chapter 14 JPR and administered by OGPE
Regulation No. 13	The floodable Areas regulation	PRPB	In original program doc and 306(d) Findings	NO	
Regulation No. 17	Planning regulation for Coastal zone, access to beaches	DNER	Added via RPC in 1988	YES	Repealed by Law 161, incorporated as Chapter 30 of the JPR and administered by OGPE
Regulation No. 26	Construction, installation, siting of towers	RPA	Added via RPC in 1988	YES	Repealed by Law 161, incorporated as Chapter 41 of the JPR and administered by OGPE
Regulation No. 27	Use permits construction and development in un-zoned areas	PRPB	Added via RPC in 1988	YES	Repealed by Law 161, incorporated as Chapter 25 of the JPR and administered by OGPE
Regulation No. 2577	Sale of Coral resources		Added via RPC in 1988	NO	
Regulation No. 6916	Regulation for extraction of materials from the earth's crust	DNER	In original program doc and 306(d) Findings	NO	
Regulation No. 1840	Hunting regulation		In original program doc and 306(d) Findings	NO	
Regulation No. 384	Fishing regulation	DNER	In original program doc and 306(d)	NO	

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
			Findings		
Regulation No.	Regulation for control of solid waste	EQB	In original program doc and 306(d) Findings	NO	
Regulation No.	Water Quality Standards	EQB	In original program doc and 306(d) Findings	NO	
Regulation No.	Air Quality standards - Regulation of Atmospheric Pollution	EQB	In original program doc and 306(d) Findings	NO	
Regulation No. 4680 (1992)	Regulation for the Use, Surveillance, Conservation, and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone	DNER	Added via RPC in 2003	NO	
	Regulation for the Sale of DNER documents and publications	DNER	Added via RPC 1988	NO	
OTHER					
Objectives and Public Policies of the Land Use Plan of PR (1995)		PRPB	Added via RPC in 07/03	NO	
Admin. Bull. 5126-A	Earthquake Safety Commission		Added via RPC 09/91	NO	
Sen. Joint Resolution 2683	Establishment of Natural Hazards Mitigation		Added via RPC 09/91	NO	

PUERTO RICO LAWS & REGULATIONS INCORPORATED INTO THE PRCMP					
LAW/REG. NUMBER	DESCRIPTION	ADMIN. AGENCY	INCORPORATED INTO PROGRAM	AMENDED BY LAW 161	COMMENTS
	Planning Program				
E.O. 4974-B	Coordination of executive functions for disasters & emergencies		Added via RPC 1988	NO	
E.O. 4974-#	Creation of program for the management and mitigation of flood hazards		Added via RPC 1988	NO	
Resolution JPE-039	Waiver of permits for DNER passive recreation projects		Added via RPC 1988	NO	
New authorities					
Reg. No 31	Joint Permit Regulations (JPR) for the Evaluation and Issuance of Permits Related to Development and Land Use	PRPB-OGPe	No		
Reg. No. 8572	Regulations to Govern the Audit of the Final Determination and Permits issued	PRPB OGPe	No		

APPENDIX D: EXAMPLES OF DELEGATION AGREEMENTS FOR THE TRANSFER OF CERTAIN POWERS OF THE PRPB AND OGPE TO THE AUTONOMOUS MUNICIPALITIES OF BAYAMON AND GUAYNABO