

THE COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF NATURAL AND ENVIRONMENTAL RESOURCES
SAN JUAN, PUERTO RICO

THE REGULATION FOR THE USE, SURVEILLANCE, CONSERVATION AND
MANAGEMENT OF THE TERRITORIAL WATERS, SUBMERGED LANDS THEREUNDER
AND THE MARITIME ZONE

AMENDMENTS

Amendments to Article 1, Section 1.2; Article 2, Section 2.17, Section 2.32; Article 5, Section 5.2, Letters C, L, Section 5.4, letter "A", Paragraph 1, Letter "B", Paragraph 3, Section 5.11 has been added; Article 9, Section 9.9, Article 13, Section 13.1, Letter "A", Letter "C" is added to Section 13.5; Article 17.

Section 1 - Article 1, Section 1.2 of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone, approved on December 30, 1992, is amended to read as follows:

ARTICLE 1 - General Provisions

Section 1.1

Section 1.2 - Legal Basis

The Constitution of the Commonwealth of Puerto Rico, in Article VI, Section 19, establishes that "it shall be the public policy of the Commonwealth to conserve, develop and use its natural resources in the most effective manner possible for the general welfare of the community; and to conserve and maintain buildings and places declared by the Legislative Assembly to be of historic or artistic value...." Through Act Number 23 of June 20, 1972, as amended, known as the "Organic Act of the Department of Natural Resources," the Legislative Assembly conferred on the Department of Natural and Environmental Resources (Department) the responsibility to implement, with respect to the operational phase, the above-mentioned public policy. To that effect the Department, acting through the Secretary, has powers and faculties, specifically vested in him by Article 5 (h) of Act No. 23, as amended, which include the duty to "exercise surveillance and see to the conservation of territorial waters, submerged lands thereunder and the maritime-terrestrial zone; to grant franchises, permits and licenses of public character for its use and exploitation and to establish through regulations the fees to be paid by same."

Act No. 6 of February 29, 1968, in Section 1, created in the Department of Transportation and Public Works an area of Flood Prevention and Conservation of Beaches and Rivers (Prevention Area). The powers assigned to the Prevention Area included the "survey and control of floods; the vigilance, conservation and cleaning of beaches, the control of the extraction of sand and gravel on the beaches; the demarcation and drainage of the maritime-terrestrial zone; and the vigilance and attention of [mangroves] which are the property of the Commonwealth of Puerto Rico." These powers were transferred by Article 6(c) of Act Number 23 to the

the Commonwealth of Puerto Rico." These powers were transferred by Article 6(c) of Act Number 23 to the Department. This Regulation is adopted by virtue of the provisions of the above-mentioned laws.

The Governor of Puerto Rico, through the Planning Board, approved the Coastal Zone Management Program (Management Program) in 1978. The development and approval of the Management Program was one of the elements required by the US Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA), once Puerto Rico decided to make itself eligible for the benefits conferred under the Coastal Zone Management Act (CZMA). The Regulation is part of the Coastal Zone Management Program. It shall be applied and construed to the maximum extent allowed by the law, consistent with the approved Management Program.

The Regulation is also adopted pursuant to Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

Section 2 - Article 2, Section 2.7 and 2.32 of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone, are amended to read as follows:

ARTICLE 2 - Definitions

Section 2.1

Section 2.17 - Property in the maritime public domain

The shoreline and the shore of the rivers, including the maritime zone which also extends along the banks to a point where it is sensible to tidal action; including those salt-marshes, ponds, marshes, estuaries and, generally, the low lands bathed by the ebb and flow of the tides, their bed and subsoil; the territorial waters and submerged lands thereunder.

Section 2.31

Section 2.32 - Department

The Department of Natural and Environmental Resources of the Commonwealth of Puerto Rico - a public agency created by Act No. 23 of June 20, 1972, as amended, 3 LPRA §§151-163 (1982) and Reorganization Plan No. 4 of 1993, approved on December 9, 1993.

Section 3 - Article 5, Section 5.2 Letters C and L; Section 5.4, Letter "A", Paragraph 1, Letter "B" Paragraph 3 of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone, are amended, and Section 5.11 is added, to read as follows:

ARTICLE 5 - Application for Authorization and Concessions

Section 5.1

Section 5.2

C. A detailed description of the use that is proposed to be derived or that will continue to be derived, as the case may be, of properties of the maritime public domain. Such description shall include:

D.

E.

K.

L. The payment of \$500.00, in money order or certified check payable to the Secretary of the Treasury, as filing fee. The Secretary may exempt or reduce the payment when in his judgment the applicant demonstrates to be a person who lacks resources and the activity object of the application is his/her or his/her family's only income, as for example fishermen, street vendors, etc.

Section 5.3

Section 5.4 Evaluation Criteria

A. Public Interest Affected

1. The decision of whether or not to grant an authorization or concession shall be based on an assessment of the probable impact, including cumulative impacts, of the proposed activity on the public interest. An assessment of the probable impact that the activity may have on the public interest requires that all relevant factors be weighed and balanced in each case. The benefits that may be reasonably anticipated and those to be derived from the proposal must be balanced against the detrimental factors that also may be reasonably anticipated. The decision whether to grant or not to grant an authorization or concession, and, if in the affirmative, under what conditions, must be the result of the general assessment process indicated above. The decision must reflect the interest of the Commonwealth of Puerto Rico, for the benefit of the People, directed to the protection and best use of the resources within the maritime public domain. All factors which may be relevant to the proposal must be considered, including their cumulative impacts. Among such factors could be those related to conservation, the economy, aesthetics, general environmental considerations, wetlands or swamp lands, historic property, fish and wildlife, flood hazards, floodable areas, land use, navigation, coastal erosion and accretion, recreation, tourism, energy needs, safety, food production, need for minerals, ownership of real property, and, in general, the needs and well being of the public.

B. Effect on Wetlands or Swampy Lands

1.

2.

3. Even if the alteration of a particular wetland may be considered as a minor modification, the cumulative impact of numerous isolated changes could significantly deteriorate the wetland. Therefore, if an application or authorization is granted for a particular wetland that will be impacted, it shall be assessed with the recognition that it may be part of an area of interrelated wetlands.

Section 5.5

Section 5.6

Section 5.7

Section 5.8

Section 5.9

Section 5.10

Section 5.11 - Authorizations for Private Use of Public Domain

The Secretary may, as an exception, make concessions to authorize the private use of public domain property in the coastal littoral for a fixed time period, as long as these relate to structures or buildings that are beneficial to the public interest or are related to scientific, educational, fishing, aquaculture or tourism activities".

Section 4 - Article 9, Section 9.9 of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone is amended.

ARTICLE 9 - Special Authorizations

Section 9.1

Section 9.2

Section 9.3

Section 9.4

Section 9.5

Section 9.6

Section 9.7

Section 9.8

Section 9.9 - Exemptions

The Secretary may, at his discretion, totally or partially exempt non-profit organizations, associations of persons, or unincorporated groups interested in conducting recreational activities for cultural, sport, religious, or educational purposes, from the requirements of Sections 9.2 Ch, D, E, and F and 9.8. Such activities shall be non-commercial and/or non-income-producing; nevertheless, fund-raising activities will be permitted, provided that the funds are to be used for scholarships or community social assistance. The Secretary may also exempt when the applicant is a person who lacks resources and the activity object of the application is his/her or his/her family's only income, as for example fishermen, street vendors, etc.

All applications for exemption or exception under this Section, shall be accompanied with reliable evidence and shall be sworn to by the applicant before a Notary Public, under penalty for perjury.

Section 5 - Article 13, Section 13.1 Letter "A" of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone is amended, and letter "C" is added to Section 13.5, to read as follows:

ARTICLE 13 - PAYMENT OF FEES

Section 13.1 General Provisions

A. All occupancy or use of the public domain by virtue of a concession or authorization shall pay the appropriate annual fee, at the rate of (8%) of the appraised value per square meter of occupied area. The appraisal will be made and certified by an expert appraiser duly licensed and contracted by the petitioner, which shall be submitted for the approval of the Department. The fee may be revised based on the changes on the implied price index of the Puerto Rico Planning Board or whichever is higher. The fee shall be paid in certified check or, at the discretion of the Secretary or subject to his approval, may also be paid through its equivalent in specie, that is, merchandise, equipment, machinery, personal property, etc.

Section 13.2

Section 13.3

Section 13.4

Section 13.5 - Exemptions

A.

B.

C. When dealing with bona fide fishermen, that is, persons that fish to earn a living for themselves or for their family or are persons of scarce economic resources, with the same purposes. All applications for exemption or exception under this Section, shall be accompanied with reliable proof and shall be sworn to by the applicant before a Notary Public, under penalty for perjury.

Section 6 - Article 17 of the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone is amended to read as follows:

ARTICLE 17 - Effect on property rights, compliance of requirements and exemption from compliance

This Regulation shall not be construed in any way or manner that adversely affects or impairs property rights. The Secretary may request the compliance of those requirements that he/she deems necessary and convenient in order to contribute to the health, safety, order or public interest and he/she may also exempt from the compliance of those that in his/her judgment are not applicable to individual cases, are unnecessary or the information is available in the Department.

6

These amendments to the Regulation shall be effective thirty (30) days after being filed with the Department of State, in accordance with the provisions of Act Number 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedures Act.

In San Juan, Puerto Rico; this 8th day of March, 1995.

[Sgd.] Pedro A. Gelabert
PEDRO A. GELABERT MARQUES
SECRETARY

(Translation)

COMMONWEALTH OF PUERTO RICO
DEPARTMENT OF NATURAL RESOURCES
SAN JUAN, PUERTO RICO

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CONSERVATION, AND MANAGEMENT OF THE TERRITORIAL WATERS,
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October 9, 1992

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ARTICLE 1-GENERAL PROVISIONS

1.1 Title

This Regulation shall be known as the Regulation for the Use, Surveillance, Conservation and Management of the Territorial Waters, Submerged Lands Thereunder and the Maritime Zone.

1.2 Legal Basis

The Constitution of the Commonwealth of Puerto Rico, in Article VI, Section 19, establishes that "it shall be the public policy of the Commonwealth to conserve, develop and use its natural resources in the most effective manner possible for the general welfare of the community; to conserve and maintain buildings and places declared by the Legislative Assembly to be of historic or artistic value..." Through Act Number 23 of June 20, 1972, as amended, known as the "Organic Act of the Department of Natural Resources" (Act No. 23), the Legislative Assembly conferred on the Department of Natural Resources (Department) the responsibility to implement, with respect to the operational phase, the above-mentioned public policy. To that effect the Department, acting through the Secretary, has powers and faculties, specifically vested in it by Article 5 (h) of Act No. 23, which include the duty to "exercise surveillance and see to the conservation of territorial waters, submerged lands thereunder and the maritime-terrestrial zone; to grant franchises, permits and licenses of public character for its use and exploitation and to establish through regulations the fees to be paid by same."

Act No. 6 of February 29, 1968, in Section 1, created in the Department of Transportation and Public Works an area of Flood Prevention and Conservation of Beaches and Rivers (Prevention Area). The powers assigned to the Prevention Area included the "survey and control of floods; the vigilance, conservation and cleaning of beaches, the control of the extraction of sand and gravel on the beaches; the demarcation and drainage of the maritime-terrestrial zone; and the vigilance and attention of swamps which are the property of the Commonwealth of Puerto Rico."

These powers were transferred by Article 6(c) of Act Number 23 to the Department. This Regulation is adopted by virtue of the provisions of the above-mentioned laws.

Puerto Rico, through the Governor and the Planning Board, approved the Coastal Zone Management Program in 1978 (Management Program). The development and approval of the Management Program was one of the elements required by the US Secretary of Commerce, acting through the National Oceanic and Atmospheric Administration (NOAA), once Puerto Rico decided to make itself eligible for the benefits conferred under the Coastal Zone Management Act (CZMA). The Regulation is part of the Coastal Zone Management Program. It shall be applied and construed to the maximum extent allowed by the law, consistent with the approved Management Program.

The Regulation is also adopted pursuant to Act No. 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

1.3 Purpose

Puerto Rico is an island with a relatively limited land area. With a central mountain region and narrow coastal plains, about half of its surface consists of mountains and hills with slopes of 45 degrees or more. The relatively flat coastal plains comprise one third of the surface area and about 80 per cent of all the flat surface. As expected, most of the Island's development has occurred precisely within the coastal plains and their surrounding areas.

The coastal zone problems of Puerto Rico are shared by the coastal states of the United States of America. In 1972 Congress passed the Coastal Zone Management Act, 16 USC §§1471 **et seq.** (CZMA). Among other findings, Congress determined that important ecological, cultural, historic, and aesthetic values [in the coastal zone], which are essential to the well-being of all citizens, are being irretrievably damaged or lost. **id.**, Section 1451(c). Thus, Congress concluded that the key to more effective protection and use of the resources of the coastal zone is to encourage the states to exercise their full authority over lands

and waters in their jurisdiction. To that effect the CZMA, through NOAA, provides assistance for the development of programs directed to a reasonable use of the lands and waters in the coastal zone. **id.**, Section 1451(i). The programs shall include unified processes, methods, standards, criteria, and policies for dealing with the land and water use decisions of more than local significance, in our case, municipal significance.

In 1978 Puerto Rico, through the Governor and the Planning Board, approved its Management Program and submitted it to NOAA. The Department was designated the government agency responsible for implementing the Management Program and for receiving and administering the grants provided by NOAA. Since that time an Office was created within the Department for the implementation of the agreements reached by the Commonwealth of Puerto Rico with the Federal Government (Program).

The occupation of public property is one of the problems identified in the Management Program. The main places where this situation exists were identified as La Parguera in Lajas, El Combate in Cabo Rojo, and Culebra. From the point of view of economic resources, these places fall into two groups of persons: one of people with very few resources and no housing; another of wealthy people who, by occupying property in the public domain, enjoy the benefit of summer houses, or for vacationing.

As part of the Management Program, the Department announced that it would promulgate regulations to manage and resolve the squatter problem. The proposed regulation would effectively complement legislation prohibiting occupation of property without proper title deed; it would prohibit reconstruction of houses destroyed by fire or storms on property in the public domain; and it would require payment of reasonable rent for using property in the public domain for houses and piers. That regulation was never promulgated.

On June 13, 1978, the Commonwealth of Puerto Rico and the US Army Corps of Engineers (Corps) signed the "La Parguera Recreational Area Memorandum of Understanding" (MOU), for the

purpose of establishing guidelines by which the Commonwealth and Corps will work together toward the preservation and best use of the natural environment of the La Parguera area in the Municipality of Lajas and for the purpose of the Commonwealth developing the La Parguera coastal area into a recreational community for the use and enjoyment of all people. The commitments agreed to by the Commonwealth include the removal of all abandoned, unsafe or hazardous structures from the waters and mangroves of La Parguera, and to eliminate all private ownership of structures on the shoreline, within a 12-year period from the signing of the MOU.

The Corps on its part, agreed not to issue permits for any private pier or residence built after 9 July 1977 on the coastal navigable waters of La Parguera; nor for any private structure previously built on navigable waters surrounding the offshore islands and cays. Any permits granted by the Corps, previous to the MOU, to owners of private piers, houses, and other structures, were to be null and void after 1 January 1980.

On March 31, 1983, the Puerto Rico Planning Board approved the "Zoning Regulation for the Coastal Zones and the Access to Beaches and Coasts of Puerto Rico", Planning Regulation Number 17. The main objectives include "to provide new access to the coast and beaches by making it a mandatory requirement for all new developments abutting the maritime-terrestrial zone; to protect all natural reserve areas and the natural resources by not authorizing new subdivisions and/or development that could destroy and deteriorate them." As a result of the taking effect of Regulation No. 17, the Program, together with personnel assigned to the Assistant Secretariat for Planning of the Department, evaluates and reviews projects to be developed in the coastal zone that are submitted to the Planning Board.

On February 1, 1984, the Regulations and Permits Administration (RPA) and the Department entered into an Interagency Agreement (Agreement). The Agreement acknowledged "the problem posed by the proliferation of illegal structures and works in the coastal littoral of Puerto Rico and the impact that these

activities have on the right of the people to the free use and enjoyment of the beaches."

For such purposes RPA and the Department, among other matters, agreed to establish procedures "with the purpose of discouraging and stopping illegal works in the maritime zone, territorial waters and submerged lands...as well as for surveillance and monitoring for the purpose of more efficiently controlling the carrying out of illegal works in the areas under...the Agreement."

Today, almost fifteen years after the approval of the Management Program and the signing of agreements by the Commonwealth and the Federal Government, the territorial waters, submerged lands and the maritime zone are still characterized by the proliferation of opposing and conflicting uses. The private use of property in the public domain, reflected by the privatization *de facto* of the maritime zone through construction activity which partially or totally limits access to beaches; the degradation of the distinctive coastal natural resources, reflected by authorized and non-authorized discharges of used waters into coastal waters, or by people's access to them over their carrying capacity; the increase of hazards to public safety and property, resulting from construction activity and development within the maritime zone, which causes erosion and degradation of the littoral; continues.

Existing legislation defines the maritime zone in the public domain. That legislation, a legacy from Roman and Medieval Law transferred to Puerto Rico by the Spaniards as part of their laws on ports, serves to regulate the building and exploitation of port infrastructure, not to protect the natural environment, the ecology nor the natural resources. Although the definition of the maritime zone does not satisfy natural reality nor contemporary demands for conservation, preservation, and sanitation, the transfer to the Department of functions formerly under the Prevention Area, is an implicit acknowledgement of the importance of such needs.

The location of developments on the maritime zone and territorial waters of Puerto Rico, the privatization and destruction resulting therefrom, the possible exploitation of its

mineral resources and power potential are a present reality, which coupled to the duties of the Department, necessitate the statement and clarification of terms and concepts so as to adjust historic legal expressions to contemporary scientific and natural realities. That is one of the purposes of this Regulation.

The regulation also aims, first, to establish criteria and mechanisms for the delimitation, surveillance, conservation and sanitation of the maritime zone as well as for the surveillance, conservation and sanitation of the territorial waters and the submerged lands thereunder; second, to establish criteria and mechanisms for granting authorizations and concessions for the use and utilization of the above-mentioned area.

Administrative actions of the Department related to property in the maritime public domain shall pursue the following purposes:

A. To delimit the maritime zone and to assure its integrity and adequate conservation, adopting the measures necessary for its protection and restoration.

B. To guarantee the public use of the sea, the shoreline and the rest of the maritime public domain, exempting only uses deriving from duly justified reasons of public interest.

C. To regulate the reasonable use of this property in terms that are in harmony with its nature, its purposes, and with respect for the scenery, environment, and natural heritage.

Ch. To obtain and maintain, in harmony with the norms adopted by the Environmental Quality Board, an appropriate level of quality of the waters and shoreline.

D. To implement uniform and efficient procedures to delimit the maritime zone and to grant authorizations and concessions for the use thereof, as well as for the use of the territorial waters and submerged lands thereunder.

E. To impede or significantly reduce hazards to life, property, and public safety by eliminating existing developments, or banning new developments in high hazard areas and adequately controlling development in other high hazard areas.

F. To impede or significantly reduce damage to natural systems, particularly in Natural Reserve areas, as well as to promote conservation and preservation.

1.4 Applicability

A. Guiding principles:

(1) The use of the maritime public domain shall be open, public and free of charge for all common uses and for those in harmony with the nature thereof such as strolling, just visiting, swimming and other similar activities which do not require works or installations of any type and which are carried out pursuant to the effective laws and regulations of the Commonwealth of Puerto Rico.

(2) Any use which is intensive, hazardous, or has an income-yielding capacity, as well as those requiring works and installations, shall be subject to the issuance of an authorization or concession in conformance with the provisions of this Regulation and with any applicable general or particular rule, and, notwithstanding any right by virtue of *usucaptio*, no matter how much time has passed.

(3) Only those specified water-dependent activities or installations that, because of their nature may not be located elsewhere, except as provided in Article 7, shall be allowed to occupy the maritime public domain.

(4) Prior to granting any enabling authorization or concession for the use of the maritime public domain, it must be guaranteed that an appropriate system shall be provided for disposing of used waters and solid wastes, pursuant to effective laws and

regulations. Subsequent lack of compliance with this obligation will result in the administrative authorization or concession being declared to have expired, and the structure shall be removed, subject to any corresponding sanction therefor.

(5) The beaches shall not be for private use, except as provided in the Regulation.

(6) Any use and structure therein permitted, in addition to compliance with the provisions of the previous paragraph, shall provide free public access, except when duly justified reasons of safety, economic, or the public interest require otherwise.

(7) Structures for beach services shall be located, preferably, outside the beach area, in compliance with the dimension and distance established by regulation.

(8) The parking and unauthorized circulation of traffic of boats, vessels, or motor vehicles shall be prohibited on property in the maritime public domain.

B. The Geographical Extent of the Regulated Area

The following are hereby considered property in the public domain:

(1) The shore of the sea and of the rias, including the maritime zone determined by surveys or maps certified by the Department, according to the criteria established in Article 3 or 15. Salt marshes, mangroves, swamps, and low lands, in general, flooded by the ebb and flow of tides, shall also be included.

(2) Accessions to the shore resulting from the depositing of materials, or from withdrawing of the sea, for whatever reasons.

(3) Lands gained from the sea as the direct or indirect result of works, and of the drainage of the seashore.

(4) Lands invaded by the sea which, for whatever reason, become part of its basin.

(5) Banks touching the sea or areas of the maritime zone up to the point reached by the highest waves in times of storms.

(6) The territorial sea.

(7) For administrative purposes, the lands incorporated to an area, as to continue its surface, by the holder of a concession, provided that such act is explicitly permitted by the concession granted by the Department.

(8) Lands contiguous to the seashore, acquired to be incorporated into the maritime zone.

(9) Works and installations built by the Government in said domain.

(10) Works and light installations in the coast, and navigation signs, built by the Commonwealth of Puerto Rico, wherever located, as well as the lands affected by the service thereto, except as provided in Article 1, Section 1.5.

(11) Port zones and installations owned by the Government which shall be regulated by particular legislation.

(12) The islands which are or may be formed by natural causes in the territorial sea, or in inland waters, or in rivers, up to the point where tides are sensible, except those which are the private property of any person or public entity, or separated therefrom in which cases, the maritime zone, beaches and other such property would be in the public domain.

C. Activities requiring authorization

Unless otherwise stated in the Regulation, any activity which, even without requiring works, structures or installations of any kind, generates profit, or is hazardous to human health, property or the environment, shall be subject to previous authorization from the Department, as well as activities which involve occupying the maritime public domain with dismountable installations or movable property. The activities which shall be previously authorized by the Department, include:

(1) Any construction, repair, replacement, reconstruction, demolition, or removal of any landfill or work which had not been previously approved, or for which an authorization, permit, franchise, license or concession, which is not valid at present time, had been granted;

(2) Any existing or proposed use for any landfill or work which had not been previously approved, or for which an approval, permit, license, or concession had been granted which is not valid at present time;

(3) Any dumping, liquid as well as solid, in or on property in the maritime public domain;

(4) Any dredging or extraction of aggregates, or dredging within property in the maritime public domain;

Ch. Activities allowed by concessions

Any use of the geographic area hereby described in Article 1, Section 1.4 (B), by means of permanent or unremovable works or structures, shall be subject to previous concession granted by the Department.

1.5 Exemptions

The provisions of this Regulation shall not applied to:

A. The ports and their waters, piers that are public property, the submerged lands thereunder, the maritime zone comprehended in all the port zone, duly delimited by regulation, and all buildings situated therein, under the jurisdiction of the Ports Authority, as provided in Articles 2 and 6 of Act Number 151 of June 28, 1968, as amended, known as the Dock and Harbor Act of Puerto Rico of 1968, 23 LPRA §§2101-2801, §§2202-2601 (1987); or, under the jurisdiction of any municipal instrumentality, as provided in Act Number 81 of August 30, 1991, as amended, known as the Municipal Reform Act of the Commonwealth of Puerto Rico of 1991, 21 LPRA §§4001-4901 (suppl 1992);

B. The lands in private ownership located in the maritime zone, except as hereby provided in relation to the delimitation of the maritime zone;

C. The lands reserved by the United States Government, for public use.

1.6 Applicability of provisions of other Regulations

The granting of an authorization or concession by the Department, as hereby provided, shall not exempt any person from the obligation of obtaining any other authorization, franchise, permit, license, and/or endorsement required by other laws and regulations administered by the Department, the United States Corps of Engineers (Corps), the Environmental Protection Agency (EPA) or any other public body. The authorizations and concessions granted by the Department for the use of properties in the maritime public domain are valid and effective with the proviso that such uses are in turn permitted by the jurisdictional agencies or instrumentalities of the Commonwealth of Puerto Rico or the government of the United States of America.

ARTICLE 2-DEFINITIONS

For the purpose of the present Regulation the following terms shall have the meaning expressed below:

2.1 Accessions-All earth crust's materials or components which are added to the maritime zone by the action of the sea, rivers, and other bodies of water which directly flow into the littoral.

2.2 Recreational activities-All activities held outdoors which foster the concentration of persons for commercial, sports, cultural, religious, and/or educational purposes, or to derive enjoyment, happiness or pleasure, or which produce, or from which organizers or promoters of such activities derive, economic, promotional or advertising benefits, or of any other kind, such as, but not limited to: festivals, tournaments, regattas/boat races, sports competitions, and artistic activities.

2.3 Environmental Protection Agency (EPA)-Federal public agency created in 1970 through Executive Order, Reorganization Plan No. 3 of 1970, 35 Fed. Reg. 15623 (1970). Its responsibility includes the implementation of federal environmental laws; the Clean Water Act, 33 USC §§1251-1376; and the Marine Protection, Research and Sanctuaries Act, 33 USC §§1401-1445.

2.4 RPA-Regulations and Permit Administration. Public agency created by Act Number 76 of June 24, 1975, as amended.

2.5 Territorial Waters-All waters extending seaward from the shoreline of the island of Puerto Rico and from its adjacent islands as it has been or may in the future be modified or altered by separation, erosion, or withdrawal of the sea, out to three marine leagues (10.35 miles).

2.6 Coastal pool-Lagoons created by flood tide.

2.7 Extension or addition-A structural construction or alteration to increase or add floor area to an existing structure.

2.8 Use-An activity that occurs on property in the maritime public domain, or a new or existing, fixed or removable structure, situated on or within such property.

2.9 Occupied Area-The space occupied by a structure, as the necessary area for the authorized use.

2.10 Area of High Natural Value with Priority for Conservation-A place classified as a Natural Reserve Area, or Special Planning Area, where there are uses, structures or facilities on property in the maritime public domain that have not been approved by the Department.

2.11 Special Planning Area-Coastal areas, which are identified by the Department and officially designated by the Planning Board, of such significant resources that they require detailed planning when being used since its potential use may provoke conflicts among, or place pressure on, the needs for conservation, preservation and development. The Special Planning Areas identified as part of the Coastal Zone Management Program in 1978 are:

- a. Piñones-Vacía Talega SPA;
- b. Pandura-Guardarraya SPA;
- c. Jobos Bay SPA
- ch. Southwest SPA
- d. Isabela Dunes SPA
- e. Tortuguero Lagoon SPA; and
- f. Vieques SPA

2.12 Natural Reserve Areas-Areas identified by the Department and officially designated by the Planning Board, which due to their physical, ecological, and/or geographical characteristics, and to the social value of the resources in these areas, are worth conserving, preserving, or restoring to their natural condition in accord with the objectives and public policies for the island-wide Land Use Plan, adopted by the Board on June 8, 1977, and approved by the Governor on July 22, 1977, as amended, of important coastal resource areas, subject to present and potential conflicts, which are to be preserved in substantially their present condition, or, in the case of natural areas whose restoration is practicable, restored to their previous natural condition. The Natural Reserve Areas identified as part of the Coastal Zone Management Program in

1978 are:

- a. Constitution Bridge Mudflats;
- b. Piñones State Forest;
- c. Torrecilla Alta Pterocarpus Forest;
- ch. Río Espíritu Santo;
- d. Cabeza de San Juan (sic);
- e. La Cordillera Reefs;
- f. Ceiba State Forest;
- g. Humacao Swamp and Pterocarpus Forest;
- h. Guayama Reef;
- i. Jobos Bay and Mar Negro;
- j. Punta Petrona
- k. Caja de Muertos;
- l. Guánica State Forest;
- ll. La Parguera;
- m. Boquerón State Forest;
- n. Laguna Joyuda Mangroves;
- ñ. Tourmalines Reef;
- o. Espinar Swamp;
- p. Arecibo Lighthouse;
- q. Caño Tiburones;
- r. Cueva del Indio;
- rr. Hacienda La Esperanza;
- s. Laguna Tortuguero;
- t. Dorado Pterocarpus Forest;
- u. Mona and Monito Islands;
- v. Vieques Bioluminescent Bays.

2.13 Aggregates-The gravel and sand used in making concrete.

2.14 Silting-Sediments deposited by the ebb and flow of the sea along the coastal fringe, aided by the wind.

2.15 Landing place-Any place on the coast where a vessel may moor to the land or the dock.

2.16 Authorization-A written consent granted by the Secretary for the short-term utilization, for not more than one year, of

property in the maritime public domain, which does not require the installation or use of permanent or nonremovable structures.

2.17 Property in the maritime public domain-The shoreline and the shore of the rias, including the maritime zone which also extends along the banks to a point where it is sensible to tidal action; including those salt-marshes, ponds, marshes, estuaries and low lands at large bathed by the ebb and flow of the tides, their bed and subsoil.

2.18 State Forest-Lands claimed, acquired or administered by the Forest Service of the Department pursuant to Act No. 133 of July 1, 1975, as amended, known as the Forest Act of Puerto Rico.

2.19 Coastal Zone Management Act-Public Law 92-583, 86 Stat. 1280, as amended, 16 USC §§ 1451-1464.

2.20 Concession-Written consent given by the Secretary for the long-term use of property in the maritime public domain, which requires the installation or use of permanent or unremovable structures.

2.21 Conservation-Planning and management concept implying the safeguarding, protection, defense, control and limited use of a natural, cultural or ecological resource, for the purpose of improving and/or maintaining its natural conditions and characteristics.

2.22 Construction-All works or part of the same, temporary or permanent, of any material, fixed or removable, which are made, built, constructed, erected, fixed, located, abandoned or existing in, within, on, or under property in the maritime public domain. They include improvements, works, and installations carried out to facilitate or complete the work, such as, but not limited to: houses, huts, tents, food stands, trailers or mobile homes, vehicles for selling food, palisades, fences, hedges, walls, posts, pillars, pilasters, platforms, boardwalks, quays, docks, ramps, piping, cables, earth movement, landfill, dredging, etc.

2.23 Water dependent construction-Any activity or structure which, due to its nature and purpose, may only be carried out in, within, on, or under property in the maritime public domain.

2.24 Non-water dependent construction-Any activity or structure which consists of one or more non-dependent water uses, or a combination of dependent and non-dependent uses, as defined in Article 6.

2.25 Permanent or nonremovable structure-Any man-made work purposely adhered to, in, on, or under property in the maritime public domain. It shall include, but will not be limited to, any dock, landing place, quay, dam, weir, breakwater, piles, rip-rap, groyne, lines, cables, path, passage, streets, roads, groins, bridges, parking places, piping, ducts, tunnels, wires, or any floating or permanently adhered object, raft, buoy, vessel or aquaculture object. Any object previously described, situated in a duly delimited port zone, pursuant to Art. 6 of Act No. 151 of June 28, 1968, as amended, shall not be considered a permanent or removable structure. Neither any fishing gear nor artifact duly approved or authorized by the Department shall be considered as permanent or nonremovable structure.

2.26 Removable or temporary structure-See disassembling installations.

2.27 Build-To make, construct, erect, place, fix, locate, or abandon, temporarily or permanently, within, on, or under property in the maritime public domain.

2.28 US Army Corps of Engineer (Corps)-One of the basic branches of the Army of the United States of America, 10 USC §3063, responsible for the water resource development projects and the issuance of permits under Section 404 of the Clean Water Act, 33 USC §1344.

2.29 Ranger Corps of the Department of Natural Resources (Ranger Corps)-A civil organization for law enforcement, created by Act No. 1 of June 29, 1977, under the direction of the Secretary of the Department of Natural Resources, and charged with the enforcement of the laws and regulations promulgated for the conservation and protection of natural resources.

2.30 Environmental Impact Statement-A written, detailed document assessing the environmental impact of an action which

significantly affects, or may potentially affect, the quality of the environment, prepared by a Commonwealth agency or instrumentality, pursuant to Article 4 (C) (a)-(v) of Act Number 9 on Environmental Public Policy, 12 LPRA §§1121-1124 (c) (i)-(v) (1978).

2.31 Historic inland limit or land within the maritime zone- Inland boundary within the maritime zone of Puerto Rico existing before any human alteration of the beaches, riverbanks or seashore through land filling, dredging, excavation, dike, breakwater, constructions or by any other means.

2.32 Department-The Department of Natural Resources of the Commonwealth of Puerto Rico, a public agency created by Act No. 23 of June 20, 1972, as amended, 3 LPRA §§151-163 (1982).

2.33 Survey-Action to determine boundaries between one or more properties contiguous to the maritime public domain.

2.34 Solid waste-putrescible and non putrescible discarded material (except human excrement), such as food waste, rubbish, ashes; street cleanings; dead animals; junked vehicles; scrap metal; dry sludge from sewage treatment plant; ash and residue from incinerators; commercial, industrial, agricultural, and other waste. It also includes combustible or noncombustible waste such as paper, rags, cardboard, wood, tin cans, weeds, glass, china, or garbage of any kind, and other waste, but not including material purchased and stored by merchants for recycling.

2.35 Dike-A man-made structure built to hold back flood waters.

2.36 Dredging-The extraction of aggregates, or any other material from the earth's crust submerged in property in the maritime public domain, with the use of machinery.

2.37 Dune-A mound of sand, with or without vegetation, formed along the shore through action of the wind.

2.38 Boat or ship-Any vessel propelled by machinery as its main source of power (or in which a motor may be installed), or any other motor boats or launches, used, or capable of being used as a means of transportation, except hydroplanes.

2.39 Erosion-The wearing away of materials from the earth's crust along the shoreline by the sea, wind, runoffs, or percolation, natural, or anthropogenic elements.

2.40 Rip-rap-A stone construction to protect from erosion.

2.41 Rubble-Waste from ruins or demolished buildings.

2.42 Groin-A sea wall usually built at the shoreline to hold back the waters and to protect the land.

2.43 Commonwealth of Puerto Rico (Puerto Rico)-The Island of Puerto Rico and the islands, lands and waters under its jurisdiction.

2.44 Structure-See permanent or nonremovable structure.

2.45 Estuary-The area at the mouth of a river, generally funnel-shaped, where fresh water and sea water mix by tidal effects.

2.46 Environmental Impact Assessment (EIA)-A document to determine whether an Environmental Impact Statement (EIS) or a Determination of Non-Significance Environmental Impact (DNSEI) is required, pursuant to the regulation promulgated by the Environmental Quality Board.

2.47 Excavation-The process of making a cavity in the earth's crust through the extraction of aggregates or other materials.

2.48 Extraction-A process to take out materials from the earth crust.

2.49 FEMA-Federal Emergency Management Administration

2.50 Federal Emergency Management Administration (FEMA)-Office created by the President of the United States of America, through Executive Order No. 12148 of July 20, 1979, responsible for the protection of civilians in cases of natural disasters.

2.51 Anchorage-A place where vessels can take a hold on the bottom of the sea by means of their anchors.

2.52 Own home-A structure occupied as the principal residence by a family, or by a person who has no other housing alternative. There shall only be one own home for one particular family or person living alone. The home of a *bona fide* resident shall be considered an own home. A *bona fide* resident is a person or family

who lives continuously, all year round, in a residence of his/her ownership.

2.53 Disassembling Installations-"Disassembling installations" are those which:

a. at most, need temporary foundations, which in any case do not stand up from the land.

b. are made of serial parts of prefabricated, modules, panels, or other similar materials, which do not require preparing materials in the works, or welding.

c. are assembled and taken apart in sequence, which may be removed without demolition, and all of its parts may be easily transported as a single unit.

2.54 Act Number 9-Act Number 9 of June 18 1970, as amended, known as the Environmental Public Policy Act of The Commonwealth of Puerto Rico, 12 LPRA §§1121-1142 (1978).

2.55 Littoral-Coast or beach.

2.56 Quay-A wall to safeguard from floods property in the maritime public domain.

2.57 Mangrove-Vegetation typically of the tropical coastal zones, composed of species of trees which usually have accessory respiratory organs that allow them to form colonies on lands subject to tidal flows or periodic floods.

2.58 Preliminary Maps of Property of the Maritime Domain-Representation made by the Department without the need to conduct a survey of the inland historic delimitation of the maritime zone in any area of high natural value with priority for conservation.

2.59 Equinoctial tides-The ebb and flow which bathe the banks during the time of the year in spring and summer when the sun crosses the equator, making night and day of equal length in all places of the earth.

2.60 Marina-A structure which provides facilities and multiple services for tying up, mooring or docking, dry-docking, anchoring, supplying or repairing boats.

2.61 Salt marshes-Low and swampy land flooded by the sea.

2.62 Marshes-Swampy land.

~~2.63 Survey-An act to establish the measure, capacity or surface area of a place.~~

2.64 Monumentation-An act to set, demarcate or place posts, stones or any other tangible object which permits to establish the boundaries or limits between private property and property in the maritime public domain.

~~2.65 Pier-Any work used for the mooring of vessels to land or the loading or unloading of persons or things.~~

2.66 Work-Buildings, facilities or installations and structures, including improvements and activities undertaken on land to facilitate or complement the building process.

2.67 Public body-Any administrative agency, commission, municipality, instrumentality or public corporation of the Commonwealth of Puerto Rico, or federal Government, and any of their respective branch offices.

2.68 Face of a wall-Any of the two sides of a wall.

2.69 Person-Any public body, or natural or artificial person, including its agents, employees, mandataries or representatives.

2.70 Interested party-A person who, as a result of a decision taken by the Department to grant an authorization or concession, may suffer specific damage, different in type or magnitude from any other damage suffered by the public at large, and which falls within the sphere of public interest protected by the Department.

2.71 Petitioner-Any person or public body that may request from the Department an authorization or concession, or renewal of the same.

2.72 Pile-A structure made of wood, concrete, or any other material, which is driven into land or submerged land to strengthen foundations or to support any structure.

2.73 Beach-The shoreline of the sea or ocean formed by loose sand, occasionally gravel or stones, in relatively flat surfaces, with gentle slopes, with or without typical vegetation.

2.74 Squatter-A person who occupies property in the maritime public domain without holding a valid title deed.

2.75 Preservation-Planning concept which implies the care and

protection of an area designated as a unique or significant natural, cultural, or ecological resource to maintain its unique and special conditions in order to be ultimately studied or contemplated in a restricted, limited and controlled manner.

2.76 Program-Coastal Zone Management Program of the Department.

2.77 Management Program-Puerto Rico Coastal Zone Management Program. Document transmitted on July 12, 1978 by the Governor of Puerto Rico to the National Oceanic and Atmospheric Administration (NOAA).

2.78 Coastal Zone Management Program of the Department-Entity created in 1978, attached to the Department through which the Commonwealth of Puerto Rico administers grants provided by NOAA, and supervises or fulfills the commitments of the Department.

2.79 Natural Heritage Program-Entity attached to the Department of Natural Resources, created by Act No. 150 of August 4, 1988, as amended, (12 LPRA §§1225-1241, Suppl. 1992). The functions of this Program include: the preparation of an inventory of wetlands and floodable land, and the identification of land that should be preserved for their value as a natural resource.

2.80 Ramp-A sloping structure designed to launch into water or bring onto land any type of boat, vessel or aircraft.

2.81 Reconstruction-To build 50% or more of a structure.

2.82 Wildlife Refuge-An area to be used as a sanctuary or shelter, administered and watched by the Department, to conserve wildlife species and their natural habitats.

2.83 Landfill-Non-consolidated materials confined to or expected to remain in a body of water, except those materials deposited by natural processes that are not caused by a person; also including dredged material deposited into waters of the maritime public domain.

2.84 Repair-Construction undertaken to mend or repair damage to or deterioration of a structure, provided that an area of less than 50 % of the structure is involved and the same kind of materials are used.

2.85 Natural Reserve-An area identified and recommended by the Department to be designated by the Planning Board to be conserved, preserved, or restored to its natural condition due to the physical, ecological, geographic characteristics, or the social value of the natural resources therein, pursuant to the objectives and public policy of the Land Use Plan, adopted by the Planning Board on June 8, 1977.

2.86 Ria-An inlet into the sea, where lowlands of some river banks are drowned by sea waters. A wide cove.

2.87 Bank-The border of the sea or of a river and adjacent land.

2.88 Threat to safety or to ecology-Any use of property in the maritime public domain in dilapidated condition or that jeopardizes the safety of people or property, or that affects the quality or integrity of the environment.

2.89 Stack or pile-Things arranged one over the other.

2.90 Breakwater-A dike built into the water to create a harbor, port or bay, or to protect the littoral.

2.91 Sanitation-Action to improve the present condition of a place, leading to eliminate conditions that have an adverse impact on existing resources therein.

2.92 Secretary-Secretary of the Department of Natural Resources.

2.93 Fish and Wildlife Service (FWS)-Agency of the Department of the Interior of the United State of America (16 USC §742b). The responsibilities of this agency include: providing advice and assistance to the Secretary of the Interior, as he may require, related to the policies and procedures that are necessary and desirable to carry out efficiently, and in the public interest, the laws relating to fish and wildlife (16 USC §742f).

2.94 Salvage Easement-Legal burden placed upon lands of private ownership contiguous to the sea or situated in the maritime zone. It consists of a twenty meters wide strip of land extending inland from the maritime zone delimitation.

2.95 Coastal Surveillance Easement-Legal burden consisting of

the obligation to leave open a six-meter wide right of way contiguous to the maritime zone limit or to the limit established by the waves during major storms in places that are not sensible to tidal actions. In areas where passage is difficult or hazardous, the right of way may extend further inland beyond the six (6) meter line, but without exceeding what is strictly necessary.

2.96 Pollutant-Any waste from dredging, solid waste, bottom ash waste, sewage waters, ammunition, chemical waste, sludge, biological material, radioactive material, heat, demolished or discarded equipment, stone, sand, and any industrial, municipal or agricultural waste.

2.97 Submerged land-Soils or terrain which are permanently or periodically covered by water up to, but not over the line of high tide, in beaches, bays, lakes, swamps and other bodies of water.

2.98 USGS-United States Geological Survey.

2.99 United States Geological Survey (USGS)-Entity created in 1879, attached to the Department of the Interior of the United States of America.

2.100 Accessory uses-Those uses defined in Article 6.

2.101 Water dependent uses-Those uses defined in Article 6.

2.102 User-A person authorized to use or make use of the property in the maritime public domain.

2.103 Usucapio-A means of acquiring ownership of a thing or property by a person who possessed them as an owner, in compliance with the time period and conditions established by law.

2.104 Motor vehicle-Self-propelled means by which any person or possession may be transported or carried on public ways, as defined in Act Number 141 of May 30, 1973, as amended.

2.105 Vessel-Canoe, sailboat, rowboat, water ski, surfboard (with or without a sail), watercycle and any apparatus that moves over water and serves to transport persons, or is used for recreation.

2.106 Fishing village-An installations with structures and facilities for storage, processing, and buying and selling of fish products of a group of *bona fide* fishermen.

2.107 Coastal Zone-Strip of land along the shore of the ocean and adjacent waters, including adjacent islands within the jurisdiction of the Commonwealth as defined by the Department of Natural Resources and approved by the Planning Board and the Governor of Puerto Rico, extending inland one thousand (1,000) meters from the coast line and additional distances, as necessary, to assure the inclusion of key natural coastal systems as well as the water and submerged lands that extend, three (3) marine leagues seaward from the coastline (10.35 terrestrial miles).

2.108 Maritime Zone-Means the space on the coasts of the Commonwealth of Puerto Rico bathed by the ebb and flow of the tides where tides are noticeable, and where the largest waves are felt during a storm in places where tides are not noticed, and including the lands recovered from the sea, accessions and siltings added by the sea, and along the banks of rivers up to a place where they are navigable or where the tides are noticed; and the term, notwithstanding any condition, shall mean the maritime zone of Puerto Rico.

2.109 Port zone-Means that part of the maritime zone and other lands adjacent to a port that is delimited as the harbor zone of the harbor in question, as provided in Act Number 151 of June 28, 1968, known as the Puerto Rico Dock and Harbor Act of 1968, as amended, 23 LPRA §§2101-2801 (1987).

ARTICLE 3 - SURVEY OF THE MARITIME ZONE AND INVENTORY OF EXISTING USES AND STRUCTURES

3.1 Survey of the maritime zone

A. To determine the inland limit of the maritime public domain, the Department, at its discretion, shall prepare a survey, or shall require that a survey be prepared, of the maritime zone. Said survey shall be prepared at the Department's initiative or at the request of any interested party, and shall be certified as correct by the Secretary.

B. Every petitioner, and in case of surveys officially initiated, the Department, shall notify owners of adjacent property and the affected Municipalities of the beginning of the surveying process by certified mail with return receipt requested.

3.2 Information required

Any application for a survey of the maritime zone shall include the information required to establish the historic inland delimitation of said zone. In areas where there is evidence of human alteration of the beaches, riverbanks, and seashore, through landfill, dredging, excavation, dikes, breakwaters, construction, or any other means, the Department shall assume that the historic inland boundary of the maritime zone is the innermost inland limit which may be determined further inland by referral to topographic and hydrographic studies; approved plans; prior concessions, licenses, franchises, or permits; maps, or sea or navigation charts. This information may be supplemented by appropriate soil investigation, photographs, other documents, written records, and any other source of information that may reasonably be used by persons as part of their business management. Likewise, the Department may use, or require the use of, studies, plans, maps, photos, computer models, and documents on the maritime zone, or on wave or tidal action on the coasts of Puerto Rico, prepared by local and federal government instrumentalities or agencies such as, but not limited to, the Department of Transportation and Public Works, FEMA, USGS, the National Weather Service, and other

agencies.

3.3 Additional aspects that must be considered

In addition to the information, documents, and factors, mentioned in the previous section, the following must be taken into account when effecting a survey:

A. In those places of the coast of Puerto Rico, bathed by the sea during the ebb and flow of the tides, where tides are noticeable, the historic as well as the present topographic and geographic characteristics of the place shall also be considered, including, but not limited to, the presence of dunes, mangroves, salt marshes, marshes, and coastal pools, rias, beaches, etc.

B. In those places of the coast of Puerto Rico, bathed by the sea during the ebb and flow of the tides, where tides are noticeable, but there is no historic or current information on the topographic and geographic characteristics aforementioned, all available information shall be taken into account, placing special emphasis on the measuring of the equinoctial tides.

C. In those places of the coast of Puerto Rico, where tides are not noticeable, all information that may exist or be created, by way of example, but not limited to, through mathematical models or computer studies, by the Department, other instrumentalities of the Commonwealth, FEMA, the U.S.G.S. or N.O.A.A, shall be used in addition to all historic information available.

3.4 Inventory or registry of existing or new structures

The Department may prepare an inventory or register of beneficial existing uses and structures in property in the maritime public domain, when the Regulation takes effect. The inventory or registry shall be of a public character.

ARTICLE 4 - PROHIBITIONS

4.1 New uses

Once the Regulation takes effect, no one shall initiate any of the activities described in Article 1.4 Ch, without the authorization or concession required from the Secretary.

4.2 Existing uses

No one shall continue the use of property in the maritime public domain, existing at the date when the Regulation takes effect under Article 1.4 D (sic), without a concession from the Secretary. A maximum term of sixty (60) days shall be granted to all persons who apply for such concession. Said term will be counted starting from the date when the maritime zone is surveyed, according to Articles 3 or 15; or, secondly, starting from the date when the Regulation takes effect, in cases surveyed during the three hundred sixty-five (365) days, prior to the taking effect of same.

4.3 Repair or Addition to Structures

No one shall repair or add to a structure on property in the maritime public domain, without a previous concession from the Secretary.

4.4 Deposit of solid wastes and rubble

No one shall deposit solid wastes, rubble or pollutants into or in property in the maritime public domain, without the due authorization of the Department, and any other permits required from other competent public bodies.

ARTICLE 5 - APPLICATION FOR AUTHORIZATION AND CONCESSIONS

5.1 Application

All applications for an authorization or concession shall be addressed to the Secretary, provided that any application that is incomplete, or that has not been signed by the petitioner or his duly authorized representative, shall not be processed. The

petition shall be made using the forms provided by the Department for such purposes and shall comply with the guidelines or instructions issued by the Department.

5.2 Contents of the application

All applications for authorization or concession shall include, as a minimum, the following information:

A. Name and postal and home address of the petitioner. In case of an artificial person, the name and postal and home address of the resident agent and of all and each one of the principal directors shall be included, as well as a certificate of corporate existence and a copy of the certificate of incorporation. In case of a partnership, the name and postal and home address of all and each one of its partners shall be included as well as a copy of the public or private document by which the partnership was formed. The Secretary may require the submission of an income and expenditure statement and/or audited statement of condition, or any other information needed to determine the income or financial condition of the applicant.

B. The extent of the area whose occupancy is requested, name and address of the owner or owners of adjacent lands, and period of time for which the authorization or concession is requested. The Secretary may require, in extraordinary cases only, and in the absence of relevant information, a survey map of the area involved, certified by an expert duly authorized for such purposes. The map shall clearly delimit the maritime zone and the salvage and coastal surveillance easements, and shall identify the owners of lands adjacent to said zone and the location of any fixed structures adjacent to the area requested.

C. A detailed description of the use that is proposed to be derived or that will continue to be affected, as the case may be, of properties of the maritime public domain. Such description shall include:

(1) A detailed report of the works necessary to carry out the construction and the subsequent use derived thereof, including

the exact location of the equipment to be used and accessory constructions, such as, but not limited to: piping installations, docks, protective works, paths, access points, water and electricity connections, wells, drainage, and waste deposits.

(2) A set of maps, documents, and photographs containing the information required in Article 3, Section 3.2 of this Regulation.

Ch. Preliminary documentation indicating the process of obtaining other approvals required by the Commonwealth, or the federal Government for the project, and a certified copy of those approvals that have been obtained;

D. A detailed explanation of the reasons to sustain that the proposed use responds to the public interest and that the benefits of that use, for the people of Puerto Rico are greater than those derived from the current use.

E. Indication of the zone's flood susceptibility, in accordance with the maps prepared for such purposes by the Planning Board, FEMA, or any other public body.

F. Exact location of the area proposed for the use whose concession or authorization is requested, illustrated in a map at a scale of 1:20,000.

G. A description of the measures that will be implemented to prevent the contamination of the waters and sea bottom, and the degradation of the existing natural resources in the immediate or adjacent areas.

H. A recent aerial photo on a scale of 1:5000.

I. A marine chart on which navigation routes and port facilities are clearly defined.

J. A study of marine currents, sediment movements and bathymetric contours.

K. A description and analysis of the environmental impact of the proposed use.

(1) All applications filed by an agency or instrumentality of the Commonwealth of Puerto Rico for an authorization or concession that, if granted, may significantly

affect the quality of the environment.

(2) In case of applications for authorizations or concessions for the use of the maritime public domain, pursuant to this Regulation, the environmental impact assessments shall be governed as provided in Section 5.6.

L. The payment of \$500.00, in money order, or certified check payable to the Secretary of the Treasury, for filing rights.

Ll. Any other preliminary information which may have been requested in writing by officials of the Department.

M. Proof of the notice required by Article 3, Section 3.1(B).

5.3 High-intensity or complex uses

A. In case of complex uses or those which require considerable extent of land, including those requiring an Environmental Impact Statement, the petitioner may request a consultation with the Department, prior to the filing of the application (preliminary consultation). In the preliminary consultation, the petitioner shall make a presentation about the project or use proposed. The Department shall provide preliminary guidance on the application on substantive aspects of this or other applicable regulations and laws in force related to the work or activity; shall explain the procedures for granting authorization or concessions; and shall answer any appropriate question presented about this Regulation.

B. The Department, if appropriate, may invite to participate in the preliminary consultation those representatives of any other agency or instrumentality of the Commonwealth empowered to grant any permit, authorization, license or endorsement which the project may require. The Department may also invite representatives of the Municipality in which the project is intended to be carried out, or the agency or instrumentality proposing the project, for the purpose of coordinating the preparation of any environmental document required. The Department may conduct, upon request of the petitioner or on its own initiative, as many preliminary consultations as may be necessary for the coordinated interagency

review of the use proposed.

C. In case of unusually large, complex projects presented by a governmental instrumentality, the Department may, in coordination with the proponent, establish special procedures for the review one or more applications for such project. Such procedures shall provide, without limits and as the Department deems it appropriate, for the consolidation of procedures; accelerated review; authorizations and concessions, or simple or consolidated written decisions. The public shall be notified of the approval for such special procedures through public notice, as provided by law.

5.4 Evaluation Criteria

The evaluation of every application for authorization or concession shall be made taking into account the guiding principles identified in Section 1.4 A and the additional considerations stated as follows.

A. Public Interest Affected

1. The decision of whether or to grant or not an authorization or concession shall be based on an assessment of the probable impact, including cumulative impacts, of the proposed activity on the public interest. An assessment of the probable impact that the activity may have on the public interest requires that all relevant factors be weighed and balanced in each case. The reasonably anticipated benefits that may be derived from the proposal must be balanced against the damaging factors that also may be reasonably anticipated. The decision whether to grant or not to grant an authorization or concession, and, if in the affirmative, under what conditions, must be the result of the general assessment process indicated above. The decision must reflect the interest of the Commonwealth of Puerto Rico, both as to the protection and as to the use of the important resources within the maritime public domain. All factors which may be relevant to the proposal, shall be considered, including their cumulative impacts. Among such factors are those related to conservation, the economy, aesthetics, general environmental considerations, wetlands

or swampy lands, historic property, fish and wildlife, flood hazards, floodable areas, land use, navigation, coastal erosion and accretion, recreation, energy needs, safety, food production, need for minerals, ownership of real property, and, in general, the needs and well being of the people.

2. The following general factors shall be considered in the evaluation of each application:

(a) The degree of public and private need for the works or work proposed.

(b) If unsolved conflicts still exist in relation to the use of the resources, the possible use of reasonable alternative sites and methods which will permit the attainment of the objectives of the proposed works or work.

(c) The magnitude and duration of the beneficial and adverse impacts which the proposed works or work will probably have on the public and private uses that are appropriate for the sector.

3. The specific weight of each factor will be determined, based on its importance of and relevance to the specific proposal. Hence, the importance of a factor and the degree of assessment or weight it merits will vary for each proposal. A particular factor may be of great weight or importance in one case, and a much more reduced or insignificant weight in another case. However, all comments shall be considered and weighed appropriately, including those comments from federal, local or municipal agencies, or instrumentalities, as well as comments received from experts or specialists in their field of specialization.

B. Impact on Wetlands or Swampy Lands.

1. Most wetlands or swampy lands are a productive and valuable resource, whose alteration or destruction shall not be promoted unnecessarily, since it is contrary to public interest.

2. The wetlands or swampy lands which are considered to satisfy important needs of public interest include those which:

(a) perform significant natural biological

functions, such as food production in the food chain or as habitats for the nesting, breeding, migration or spawning of aquatic or terrestrial species;

(b) If destroyed or altered, would adversely affect natural characteristics of drainage, sedimentation patterns, salinity distribution, current patterns, or other environmental characteristics;

(c) are significant for the protection of other areas against wave action, erosion, or damage from storms;

(ch) serve for studying aquatic environments, or as sanctuaries or refuges;

(d) serve as valuable areas for retention of waters in case of storms or floods;

(e) serve as natural recharge areas, or contribute to the conservation of underground water resources; and,

(f) are unique or scarce, due to their biotic or aquatic features, within a region or place.

3. Even if alterations of a particular wetland may be considered as a minor modification, the cumulative impact of numerous isolated changes could significantly deteriorate the wetland. Therefore, if an application or authorization is granted for a particular wetland, it shall be assessed the recognition that it may be part of an area of interrelated wetlands.

4. The Department shall not grant any concession or authorization in cases where changes can occur in wetlands identified as important, in accordance with Sections B2 or B3, or included in the National Wetland Inventory Maps, unless the Secretary, based on the kind of analysis required on paragraph A of this section, concludes that the benefits to be derived from the proposal exceed the damage that the area under consideration would suffer.

C. Fish and wildlife

The Department shall take into account the loss or damage, direct or indirect, that the activities proposed could have on areas identified by the Fish and Wildlife Service of the Department

of the Interior as critical habitats of endangered species, pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. §§1531-1544), or as established in duly promulgated regulations of the Department.

Ch. Water Quality

Applications to undertake activities which could adversely affect the quality of the coastal or surface waters of the Commonwealth of Puerto Rico shall be evaluated, both during the construction phase and during subsequent operation stages, in terms of compliance with applicable water quality standards. The evaluation shall include the consideration of both point sources and nonpoint sources of pollution.

D. Historic, Cultural, Scenic, and Recreational Values.

Full assessment of the general public interest requires the appropriate consideration of the impact that any proposed work or activity could have on values such as those associated with historic property, with areas of high natural value with priority for conservation, with marine and estuarine sanctuaries, and with archaeological resources. Recognition of these values is reflected in zoning regulations or land use plans, adopted by the corresponding instrumentalities of the Commonwealth. Judgement of applications for authorizations or concessions must be consistent with, and must prevent significant adverse impacts on the values or purposes for which such regulations or plans were established.

E. Consideration of Real Property Ownership

The granting of an authorization or concession does not confer ownership to real property, nor authorize that the property rights of third parties be damaged or impaired.

1. An aspect inherent to the status of owner is the right to make reasonable private use of the property. However, such right is subject to the public's rights to and interests in the surface and coastal waters, including the surveillance and salvage easements, and the laws and regulations for the protection of the natural environment.

2. Although an owner has the general right to protect his

property against erosion, applications for such ends shall be favorably considered, only insofar as the following indicated damages do not occur. If the protective structure would damage third parties or adversely affect public health and safety, or cause adverse impacts on wetlands or floodable lands, or in any other way be contrary to public interest, the Secretary, at his discretion, may so indicate to the applicant and inform him of possible alternative methods to protect his property. Such advice shall be offered by way of general consultation so as to avoid competing with private engineering companies or encouraging improper use of the government resources.

3. Proposals that interfere or limit free access to the beaches, shall generally be denied.

4. The granting of an authorization or concession does not confer property rights in either personal or real property. Nor does it authorize damage to be caused to property, infringement upon third party rights, or lack of compliance with laws, regulations, ordinance of the Commonwealth of Puerto Rico, or the federal government.

5. Activities Affecting the Coastal Zone

All applications shall be evaluated for its consistency with the Coastal Zone Management Program of the Department. No concession or authorization which is not consistent with the Management Program shall be granted.

6. Economic Factors

When a private enterprise applies for an authorization or concession, it shall generally be presumed that the corresponding economic assessments have been made, and that what has been proposed is economically feasible, and necessary in the market. However, the Secretary, in cases he may deem appropriate, may conduct an independent investigation of the need for the project within the greater context of the public interest. The economic benefits derived from many projects are important for the municipalities and significantly contribute to their economic basis, affecting important categories such as employment levels,

income from patents and property tax, community integration, public services, and real property value.

7. Mitigation

(a) Mitigation is an important element in the evaluation process of applications. Mitigation considerations involve the entire process of the review of applications and include the need to prevent, minimize, rectify, reduce, or compensate for the loss of resources. Insofar as possible, the loss of resources shall be prevented. Compensation can occur at the same site of the project or proposal, or outside its immediate area. Generally, mitigation needs shall arise within the following context.

(b) Project modifications to minimize adverse impacts shall be discussed with the applicant in the preliminary consultation provided under Section 5.3 or during the review process of the application. As a result of these exchanges, the Secretary may require minor modifications. Such modifications are those considered feasible (cost, engineering, etc.) to the applicant and which, if adopted, will result in a project which, in general terms, complies with its needs and purposes. Such modifications may include reductions in magnitude and size; change of materials, method or sequence of construction, and operation and maintenance standards, or other similar modifications which reflect sensitivity to the natural environment within the context of the proposed work or activity. Such modifications may be required even if, in the absence of these modifications, the works or activities satisfy all legal requirements established by this Regulation.

(c) Any compensatory mitigation shall be for significant loss of resources which are specifically identifiable, which may reasonably be expected to occur, and which are important for the property within the maritime public domain. Any mitigation measure also shall be directly related to the impacts of the proposal, should have a correlation to the magnitude and extend of such impacts, and shall be executable. Any mitigation measure shall

strictly be adjusted in accordance with the provisions of this Section and of Section 1.6 of the Regulation.

5.5 Expiration of Applications

All applications shall expire and shall be filed after a period of one (1) year has passed, from the date that the application was filed, if the applicant has not carried out all steps or procedures required by the Department, unless the applicant justifies such inactivity. The petitioner may submit additional information showing just cause for the delay of the procedures under the Regulation, such as the fact that he has diligently continued the procedures to obtain other authorizations or endorsements before other forums or public bodies during said period. Unfavorable economic conditions or factors shall not be considered just cause.

5.6 Filing date

For the purpose of this Regulation, the filing date of the application shall be the date when the petitioner submits all the information and documents required by the Department, through the forms and guidelines adopted by it, and the written requirements arising from preliminary consultations, pursuant to this Article.

No provision of this section shall be construed as impeding the Department from requiring from the applicant additional information necessary for completing the review process of the application, after its filing.

The Department will notify the applicant in writing of the filing date and number assigned to the application.

5.7 Assessment of Environmental Impacts

A. In cases of applications for authorizations and concessions submitted by particular or private persons, which are not part of projects subject to authorization or approval by other agencies or instrumentalities of the Commonwealth of Puerto Rico or of the federal government, and, therefore, there is no proponent agency, or in those cases where the proponent agency is the

Department itself, the following norms shall govern the procedures of assessing the environmental impact of the proposed activity:

(1) A preliminary consultation meeting shall be held, as described in Section 5.3, to determine the kind of document of environmental analysis to be prepared, the range and extent thereof, and the areas of particular interest which the Department is interested in having analyzed.

(2) In these cases in which the nature of the proposed activity and its potential impact on the environment is such that it needs a more specialized analysis than the one usually required, the Department may provide that a part or all of the document may be prepared by personnel of its own staff. Likewise, in the presence of the above-mentioned factors, the Department may require that a part or all of the environmental document be prepared by persons or entities, public as well as private, selected by the Department itself.

(3) The applicant for the authorization or concession, in all cases listed above, shall be responsible for the costs, and fees of the persons designated by the Department for the preparation of the environmental analysis document.

B. Every environmental document shall comply with the format and contents requirements, provided by Act Number 9 of June 18, 1970, as amended, known as the Environmental Public Policy Act of the Commonwealth of Puerto Rico, (12 L.P.R.A. §§1121-1142), with the Regulation for Environmental Impact Statements of the Environmental Quality Board, Number 3106 of June 4, 1984; and with any other regulation duly promulgated by the Department.

5.8 Public Notice

A. All applicants shall publish a notice in a newspaper of general circulation in Puerto Rico, within ten (10) days after the filing date of the application, as notified by the Department, pursuant to Section 5.6. Said notice shall include: the name of the petitioner; the exact location of the proposed use; a brief description of what is being applied for; an indication of the

documents, reports, or other documents available for public scrutiny; the period of time available for submitting comments to the Department which shall not be less than thirty (30) days from the publication of the notice; and the address to which these comments shall be submitted. The notice shall specify the Department's classification of the proposed use as water dependent, non water dependent, or accessory water dependent, pursuant to Article 6. The prior approval of the Secretary is required before publishing these notices.

A public notice shall be published in all cases applying for a concession for the use of the maritime public domain. In other case, the Secretary, at his discretion, may waive compliance.

5.9 Comments from Public Bodies

As part of the review process of the application, the Secretary may require the notification of the Public Notice of Section 5.8, within the term of ten (10) days therein provided, and may require comments, within thirty (30) days of the notification of the notice, from any public bodies which the Secretary deems are necessary or appropriate.

5.10 Time Extension

The Secretary may extend the time provided in Article 5 when an adequate assessment of the activity, the proposed site, and its impact on the public interest, so required.

ARTICLE 6 - GRANTING CONCESSIONS FOR NEW USES AND CONSTRUCTIONS

6.1 Classification of the proposed uses

A. Water-dependency of the use.

(1) The Department shall classify every proposed use as "water-dependent" or "non water-dependent", prior to any public notice of the application for granting a concession.

(2) The Department shall classify as a "water-dependent use" all those consisting entirely of uses thus designated, pursuant to paragraph (3) of this section, and designated as accessory to a water-dependent use, pursuant to paragraph (4) of this section. All other uses shall be classified as "non-water-dependent".

(3) Water-dependent uses are those requiring direct access to, or to be located in, property in the maritime public domain, and that, therefore, can not be located elsewhere. For the purpose of this Regulation, and not to be considered an exhaustive listing, the following shall be considered as water-dependent uses:

(a) Any industrial water-dependent use, pursuant to paragraph (5) of this section;

(b) Marinas and fishing villages; areas for storage and any other commercial or recreational establishments required for the use and handling of boats and vessels;

(c) manufacturing or power-generating establishments, which due to their nature, depend mainly on ocean transportation for receiving bulk raw material, or for shipping finished or semifinished goods;

(ch) linear parks, ramps, boardwalks, and other walkways for the public, which promote the use by the public at large, and which are located along the shore of the waters; including, but not limited to, any park adjacent to channels or rivers created by a public body;

(d) Aquariums, marine research laboratories, and other establishments for education or training, dedicated principally to marine purposes;

(e) establishments for aquaculture;

(f) establishments for transporting passengers in boats or vessels, such as ferries, cruise ships, excursion boats boating, and/or aquatic shuttles or water taxis;

(g) dredging for navigation channels and for underwater disposal of dredged materials;

(h) stations for port police, firemen, or guard services, or any other establishment which promotes the public safety and the enforcement of legal or regulatory provisions in territorial waters;

(i) works which protect against floods, or for the control of coastal erosion; including, but not limited to, dikes, breakwaters, rip-rap, and any landfill necessary for the protection of existing structures against natural erosion, or for the protection, construction or expansion of certain water-dependent use;

(j) pipelines for wastes or discharges, tunnels and diffusion systems to convey runoff, process waters, or other effluents to a receiving body of water;

(k) activities or works carried out by any public body to decontaminate, isolate, or dispose of contaminated aquatic sediments;

(l) underwater communication or power lines; and,

(m) wildlife refuges, bird sanctuaries, nesting area, or any other wildlife habitat.

(4) Accessory water-dependent uses are those which, are generally related to and are necessary for the convenience of a main beneficial use which is water-dependent. The Department shall determine and decide whether proposed accessory uses form an integral part of the water-dependent construction or use under consideration, whether it provides for goods and services mainly related to people involved in such water-dependent use; and, whether it is proportionally scaled to the operations of the water-dependent use. Examples of uses which may be considered as accessory to a water-dependent use are, but are not limited to, interior access roads, parking, management offices, and other

offices providing services chiefly related to water-dependent uses; yacht clubs, restaurants, and retail facilities mainly serving users of such water-dependent uses; stores which sell bait, vessels or boats, and any other retail establishment for marine matters or articles. Among the uses which can not be determined as accessory to a water-dependent use are, but are not limited to, general residential structures, hotels, general office establishments, and retail market centers and shopping centers, or other major retail establishments.

(5) The following are considered industrial water-dependent uses:

(a) Marine terminals and related facilities used for transferring bulk material or other goods of maritime trade from one ship to another, or to the beach or shores.

(b) works related to the operation of commercial passenger vessels.

(c) manufacturing establishments which, due to their nature, depend mainly on maritime transportation for receiving bulk raw material, or for shipping finished or semi-finished goods;

(ch) commercial establishments for fishing, and for processing fish;

(d) wharves, mooring places, and other works related to the construction, service, maintenance, repair, or storage of vessels, and other marine structures;

(e) facilities or installations for trailers, floats, cranes, or other vessels used in port operations or marine construction;

(f) any water-dependent use listed in paragraph (3) of this section, provided that the Department determines that such use is related to the operations of a duly designated port zone;

(g) any other industrial use or construction that can not be reasonably located outside the maritime public domain.

(h) facilities for the exploration and exploitation of economic and non-economic minerals.

(6) The following uses shall be considered by the

Department as non-water-dependent uses (not an exhaustive list):

- (a) Restaurants, coffee shops and any other establishment sale and distribution of food and drink;
- (b) retail stores or warehouses;
- (c) automobile parking spaces;
- (ch) office facilities;
- (d) housing units and other residential establishments;
- (e) hotels, motels and any other lodging or temporary boarding facility;
- (f) parks, ramps, trails and any other pedestrian way other than those described in paragraph (3)(ch) of this section;
- (g) highways, roads, and any other work or construction for traffic circulation on land, or between main ways of communication, except those which may be designated as water-dependent, pursuant to paragraph (3) of this section; and,
- (h) underwater disposal of not related to water-dependent uses of any material extracted from or in any other way originated on land.

B. Appropriateness of the use

Once it has been established that the use proposed is water-dependent, the criteria which shall be taken into consideration to determine whether it is appropriate or not, include: the kind of use proposed, the characteristics of the existing natural resources at proposed site, and their impact on the environment, visibility and aesthetics. To this effect, there are hereby established, but not limited to:

- (1) Inappropriate location
 - (a) areas designated as State Forest;
 - (b) areas designated as Natural Reserves;
 - (c) areas included under the National System for Estuarine Research;
 - (ch) areas designated as critical for the development of wildlife, such as, but not limited

to refuges and sanctuaries;

(d) beach areas traditionally used by sea turtles as nesting areas;

(e) areas of coral reefs or seagrass

(f) areas traditionally used for public access to the shore;

(g) areas extremely vulnerable to natural hazards, such as heavy surf and floods;

(h) areas where structures built on the coast affect or block navigation;

(i) areas with severe erosion problems;

(2) Inappropriate uses

(a) excavation, dredging, removal or alteration of seagrass beds, coral reefs, or other habitats of ecological value;

(b) cutting or alteration of mangroves, or other wetlands in the coast;

(c) filling or disposal of material dredged from wetlands;

(ch) significant alteration or removal of natural vegetation;

(d) alteration of land or marine habitats that affects species of plants or animals designated as threatened or in danger of extinction;

(e) houseboats in areas of High Natural Value with Priority for Conservation.

6.2 Issuance

The Secretary shall notify the applicant of the final determination regarding the application within ninety (90) days subsequent to its filing, unless there is just cause for not doing so or it has otherwise been provided in the Department's Regulations of terms for similar application for permits, franchises, endorsements and authorizations procedures.

6.3 Public Liability Insurance and Bond

A. Prior to the issuance of the appropriate concession, the applicant must acquire a liability insurance policy, acceptable to the Department. The insurance shall be valid for the term of the concession. The Department and the Commonwealth of Puerto Rico shall be included as additional insured parties. When determining the type of policy and the insurance coverage amount to be required, the Department, among other factors, shall take into consideration the kind of activity proposed and the inherent threats, if any, of the activity itself, or due to the way it will be carried out.

B. From the moment when the Department determines and specifies in the document of concession, or in any amendment thereto, the holder of the concession shall deposit an amount sufficient to cover the expenses for the commencement of the works or installation, and for withdrawal from the maritime public domain and the easements; or to repair the works or installations in accordance with the determination or assessment made or entrusted by the Department.

6.4 Registration in the Property Register

Concessions shall be registered in the Property Register. Upon expiration of the concession, the registration shall be annulled automatically or upon request of the Department or interested party.

ARTICLE 7 - GRANTING OF CONCESSIONS FOR EXISTING USES AND STRUCTURES

7.1 Petition

Any person who intends to continue a use existing at the effective date of this regulation on property in the maritime public domain, or of any structure located on such property, shall request a concession from the Secretary, pursuant to Article 5. Said request shall be filed with the Department within six (6) months subsequent to the surveying or delimitation of the maritime zone as provided in Articles 3 or 15 of this Regulation.

In the case of an existing use, which was duly authorized by the Department more than 365 days prior to the effective date of this Regulation, the concessionaire shall request renewal of said concession not less than 30 days prior to the date of expiration, pursuant to Section 10.2 of the Regulation.

7.2 Rules that will govern these applications

The requirements as to contents, criteria of evaluation, and other factors related to the applications shall be ruled as provided in Article 5 of this Regulation.

7.3 Sanitation measures

The Secretary, prior to granting any concession for the continuance of an existing use, shall order the petitioner to carry out all the improvements that the Secretary deems necessary. The purpose of the improvements is, among other objectives, to ensure preservation or conservation of the existing natural resources in the place or area subject to the concession; to assure, in appropriate places, access thereto; to eliminate threats to the health and safety of the petitioners, or of others who live or pass through the area in question; to eliminate dumping of contaminating substances; and finally, to achieve the cleanup of the property in the maritime public domain which is being or may be adversely affected by the existing use. In case of non-compliance with the conditions imposed by the Secretary within one (1) year, the Secretary may order the removal or elimination of any and all non-conforming structure or uses. The one year period here provided does not impede, limit, or restrict the Secretary's authority to order that emergency measures be taken pursuant to Article 16 of the Regulation.

7.4 Existing use without expiration date

Any existing use, authorized by the Department prior to the effective date of the Regulation, for which an expiration date was not provided, shall expire five (5) years from its date of

issuance. The holders of such permits shall comply with Article 5 of the Regulation within sixty (60) days from the effective date, or within thirty (30) days prior to the expiration of the five (5) year term indicated above, whichever is less.

In those years the Department shall proceed pursuant to Article 10.4.

The Department shall notify the contents of this article through a public notice published in two (2) newspapers of general circulation in the Commonwealth of Puerto Rico. Likewise, the Department shall give notice through certified mail with return receipt requested, to the last address of all holders of concessions without expiration date as shown in the records of the Department.

ARTICLE 8 - GRANTING OF AUTHORIZATIONS

8.1 Discharge of pollutants

In cases of discharge of pollutants within, in, or on property in the maritime public domain, the petitioner shall justify in advance the impossibility or difficulty of applying an alternative solution to eliminate or treat said discharges. The discharge of substances which may represent a hazard or damage to public health or to the natural environment shall not be permitted.

In those cases in which discharges could cause infiltration or accumulation of substances that may contaminate the waters or underground layers, the Department shall condition its approval of such activity on the prior preparation of a hydrogeological study to justify the harmlessness.

8.2 Prohibition of effluents

The Department may prohibit, in duly designated Areas of High Natural Values with Priority for Conservation, in their vicinity, or their buffer zones, as well as in other specific zones or places duly designated within the maritime public domain, those industrial processes whose effluents, despite treatment, may cause damage to said places or the organisms living therein, as a result of either normal operations, or extraordinary but foreseeable circumstances.

8.3 Extraction of aggregates and dredging

In addition to compliance with other law provisions or applicable regulations, an assessment of the impact on the maritime public domain shall be necessary for the place of extraction or dredging as well as for the place of deposit of dredged material as a basis for granting authorizations for dredging or extraction of aggregates, in any case. Beach stability shall be safeguarded, preferably considering the need for allocating sand.

8.4 Registration in the Property Register

Authorizations shall not be registered in the Property Register.

8.5 Public notice

The Department may, at its discretion, require public notice and hold, upon public request or at its own initiative, public hearings prior to issuing a final determination with respect to any application for authorization.

ARTICLE 9 - SPECIAL AUTHORIZATIONS

9.1 General Disposition

Any person who intends to use property in the maritime public domain for commercial activities which require temporary placement of movable property on property in the maritime public domain, or for recreational activities, must obtain an authorization from the Secretary.

9.2 Application

The Department shall not process any application for special authorization that is incomplete, or has not been signed by the applicant or proponent of the activity, or if the date of filing is less than sixty (60) days prior to the holding of the activity. The applicant shall use the forms provided by the Department and shall include the following basic information:

- A. Name and residential and postal address of the applicant.

B. A sketch of the area to be used illustrating placement of equipment and removable installations or structures.

C. A schedule of the activities, and an estimate of the number of participants or attendees.

Ch. A minimum bond of one thousand dollars (\$1,000), in a money order or certified check to guarantee the cleaning-up of the area utilized.

D. A copy of the uniformed guard service contract. As determined previously by the Department, services of between five (5) and ten (10) guards should be contracted for the first four thousand (4,000) square meters of the area where the activity will be held, and one or two guards, for each additional one thousand (1,000) square meters.

E. A fee of \$500, in money order or certified check payable to the Secretary of Treasury, for filing rights.

F. The Department may require medical and lifeguard services to be provided.

9.3 Duties and obligations of the promoter or user

The promoter of the activity or the user shall be responsible for:

A. Control of sound intensity so as to comply with the applicable regulation, and to limit to capturing the attention of the public present without affecting neighboring residences, communities or quiet zones.

B. Collect and appropriately dispose of all waste generated thereof, once the activity is concluded.

C. Conclude the activity not later than 12:00 PM or at the hour determined, depending on the nature of the activity.

Ch. Compliance with the Department's requirement for conservation of the natural resources of the area.

D. Provide security and care for the area which is subject of the authorization.

9.4 Issuance

The Secretary shall notify the applicant of the final determination regarding the application within forty-five (45) days subsequent to its filing, unless there is just cause for not doing so or another time period is provided in the Department's Regulations of terms for similar applications for permits, franchises, endorsements and authorization procedures.

9.5 Time limit of Special Authorizations

Special authorizations shall not exceed four (4) consecutive days for recreational activities and one (1) year for other activities.

9.6 Public Liability Insurance

Prior to the issuance of the corresponding authorization, the applicant shall obtain a liability insurance policy, acceptable to the Department, and shall be obliged to maintain it in force for the term of the authorization. It shall include the Department.

9.7 Criteria for the establishment of removable structures

A. No structure shall have permanent foundations. Temporary foundations shall be removed when the work is removed.

B. Removable works shall not be located within the six (6) meter surveillance easement.

C. Plans should be provided for the landward relocation of works in case of high tides or coastal erosion.

9.8 Festivals

The Secretary will not grant authorizations for the holding of festivals on beaches under the jurisdiction of the Department in the area between the Capitol and Boca de Cangrejos. Nor will the Secretary grant authorizations for the holding of festivals on beaches under the jurisdiction of the Department in those municipalities where public bathing beaches exist.

9.9 Exemptions

The Secretary may, at his discretion, totally or partially exempt non-profit organizations, unincorporated associations of persons or groups interested in conducting recreational activities for cultural, sport, religious, or educational purposes, from the requirements of Sections 9.2 Ch, D, E, and F and 9.8. Such activities shall be non-commercial and/or non-income-producing; nevertheless, fund-raising activities will be permitted, provided that the funds are to be used for scholarships or community social assistance.

All applications for exemption or exception under this Section, shall be supported by a statement indicating the reasons sworn to by the applicant before a Notary Public, and under penalty for perjury.

ARTICLE 10 - TERM, RENEWAL, AND TRANSFER OF AUTHORIZATIONS OR CONCESSIONS

10.1 Terms

A. Concessions granted by the Department, except as provided by Section 10.6, shall be effective for no more than five (5) years and shall be extended, at the discretion of the Secretary, for equal terms up to a maximum of twenty (20) years.

B. Authorizations shall be effective for no more than one (1) year and shall be extended for equal terms up to a maximum of five (5) years.

C. Special authorizations shall be effective for no more than four (4) consecutive days, in cases of recreational activities, or one (1) year in other cases.

10.2 Renewal

A. All applications for renewal of an authorization or concession shall be filed at least sixty (60) days prior to their date of expiration. The applicant shall use the forms provided by the Department. The Secretary may require compliance with Sections 3.2 and 3.3 of the Regulation, or submission of all relevant additional information, for the purpose of evaluating compliance

with the terms and conditions established in this Regulation as well as in the authorization or concession previously granted. Provided that, any of the following circumstances will be sufficient cause for about denial or renewal of authorization or concession:

(1) That the applicant has rebuilt or expanded a structure subject to concession, or expanded the area occupied, without prior permission by the Secretary; or has not complied with the terms and conditions of the concession, pursuant to the Regulation. Provided that, the Secretary may require the demolition of any unauthorized structure, through the appropriate judicial or administrative procedures, and may order the restoration of the area occupied.

(2) That the applicant has built in a different place than that indicated in the concession whose renewal is requested. Provided that, the Secretary may require the demolition of the structure, or part of it, located outside the place which is the object of the concession and within lands hereby regulated, through appropriate judicial or administrative procedures. The Secretary may also order the restoration of the area that has been altered.

(3) That the Department determines that the applicant lacks the necessary authorization or standing to apply for the authorization or concession; that he submitted false information to the Department for the purpose of obtaining the authorization or concession.

B. Concessions for uses in Areas of High Natural Value with Priority for Conservation shall not be renewed for a total of terms exceeding the applicable maximum terms provided in Article 10.

10.3 Revocation

A. Lack of compliance by the holder of an authorization or concession with any of the requirements or conditions imposed by the Secretary, as well as with any regulatory or legislative provision applicable to the use permitted thereby, shall be sufficient cause for imposing an administrative fine and the suspension or revocation of such authorization or concession.

B. In cases where the use causes adverse impacts to the property in the maritime public domain, the Department may modify the concession or authorization, may impose additional conditions, or may even revoke the authorization or concession, without any right of compensation to the holder.

C. Any holder of an authorization or concession shall have the right to an administrative hearing to be held as hereby provided in Article 11, prior to the modification, cancellation or revocation of the authorization or concession. Provided that, the Secretary may issue orders to cease and desist or other similar orders, prior to holding the hearing.

10.4 Expiration

A. The expiration date of authorizations and concessions is superseded by the occurrence of acts described below or by final and nonappealable judgement of a court with jurisdiction:

(1) Expiration of the term without the granting of renewal, if such is possible.

(2) Collapse of the structure due to act of God, or ordinary or extraordinary natural causes, such as: storms, heavy storm surges, floods; or due to negligence attributable to the holder of the authorization or concession or owner of the structure, its agents, employees, representatives or usufructuaries; or due to intentional acts by third parties.

(3) Abandonment of the granted use during six (6) consecutive months.

(4) Waiver or withdrawal of the holder of the authorization or concession, as notified to the Secretary by certified mail with return receipt requested.

(5) Mutual agreement between the holder of the authorization or concession and the Department.

(6) Financial insolvency or total bankruptcy of the holder of the authorization or concession.

(7) Limitation or annulment of the artificial person of the holder of the authorization or concession.

(8) Death of the holder of the authorization or concession, except as otherwise provided by Section 10.5.

B. In all cases in which a concession or authorization expires, the Department shall decide whether to maintain the works and installations or to have them removed and withdrawn from the public domain by the holder, at his cost. Said decision shall be taken during the last year of the concession or authorization.

C. When any concession expires, the non-removable structures shall remain for the benefit of the People of Puerto Rico, without additional compensation to the holder. He shall transfer the title to the structures to the Commonwealth of Puerto Rico when the concession expires, and shall have preference for subsequent leasing thereof, subject to the maximum term provided by this section.

10.5 Transfers

Authorizations and concessions shall not be transferred by *inter vivos* acts. In cases of death of a concessionaire, his successors may subrogate, by way of inheritance or legacy, the rights or obligations of the concessionaire during a period of one-year. If this period elapses without any expressed statement to the Department, the concession shall be considered to have been abandoned. Said subrogation shall benefit the heirs or legatees for the time remaining of a concession.

10.6 Concessions for extended time

Notwithstanding the provisions of Section 10.1, the Department may grant concessions for a fixed extended time greater than provided therein, as provided below:

A. The term shall not exceed sixty-five (65) years for any use which, once constructed, shall be totally or partially located on submerged lands or in territorial waters, and shall not exceed ninety-nine (99) years for any use, or part of it, located on landfills which had previously been submerged lands. If the use proposed will be totally or partially on submerged lands, or in

territorial waters and landfills, the Department may, upon the request of an applicant, establish an average term for the totality of the use or a portion thereof, as it may deem convenient, taking into consideration the amount of surface area over submerged lands, territorial waters, and landfills.

B. The applicant must justify the need for an extended term, submitting information related to the useful life of the structures, financing requirements, appropriateness of long term use of the property in the maritime public domain for the use proposed, and any other relevant information.

C. Public hearings shall be held for every application for concession for extended term and written determinations shall be issued regarding the granting of the term.

D. There will be a requirement for periodic reports to the Secretary for every concession of extended time. The contents of said reports shall be as required by the Department.

ARTICLE 11 - ADJUDICATIVE PROCEDURES

11.1 Denial of an authorization or endorsement

Any person to whom an authorization or concession is denied by the Department, shall have the right to initiate an administrative procedure to challenge such determination, pursuant to the Regulation for Adjudicative Procedures and Administrative Fines of the Department.

11.2 Lack of compliance with law or regulatory provisions

If there are reasons to believe that a person has violated any provision of this Regulation or of the laws administered by the Department, or that such person, being a concessionaire or user, has violated any conditions or terms of the authorization or concession that was granted, the Secretary or any other officer of the Department to whom this power may be delegated, may, at his discretion, begin a procedure for the informal resolution of the issues or may initiate a formal adjudicative procedure by filing an administrative complaint in the Department.

11.3 Informal Procedure

All informal procedures will be initiated with the notification of the deficiencies incurred by the person involved, through a written notice sent by certified mail with return receipt requested, or personally delivered. Such notice must include a statement of the essential facts which give rise to the infraction and the provisions of law or regulation under which charges were brought. The statement shall also include the provision of a period of not more than a thirty (30) days for the person to give notice of the correction of the deficiencies, or to request a meeting with officers of the Department. If deficiencies are not promptly corrected, or if the Secretary or the person involved is not interested in continuing with this procedure, the Secretary may begin a formal adjudicative procedure.

11.4 Formal Adjudicative Procedure

If there are reasons to believe that there is a threat to the safety of the ecology, or that a person has violated any provision of this Regulation or of the laws administered by the Department, or that, as a concessionaire or user, such person violated any condition or term of the authorization or concession that was granted, the Secretary or any other officer of the Department to whom this power may have been delegated may begin a formal adjudicative procedure through the issuance of an order against the person charged. This procedure shall be governed by the provisions of the Regulation for Adjudicative Procedures and Administrative Fines of the Department. For the purpose of this Regulation, the order issued by the Secretary pursuant to this section will be the equivalent of the complaint, application, or petition mentioned therein.

11.5 Verbal Orders

The Ranger Corps of the Department may verbally order the immediate cease and desist, or to paralyze any activity or use being carried out in areas subject to this Regulation and which has

not been previously authorized, or when said activity or use violates the terms and conditions of the authorization issued by the Secretary or the provisions of the Regulation, pursuant to Article 5(b) of Act No. 1 of June 29, 1977.

The Ranger Corps shall submit to the Secretary, within three (3) days subsequent to the issuance of a verbal order, a report stating the name and address of the person against whom such order was issued, the description of the activity effected and shall indicate whether the person thus notified has or has not complied with the order.

ARTICLE 12 - INSPECTIONS AND INFORMATION REQUIREMENTS

12.1 Inspections

The Department, represented by its officers, and especially, by the Ranger Corps of the Department, may conduct inspections to assure compliance with the terms and conditions of the authorizations granted and with the laws and regulations that it administers, as well as with the orders and resolutions issued. The inspections may be conducted without a prior search and seizure warrant in the following cases: in cases of emergency, or when health or public safety are affected, by virtue of the powers to issue licenses or grant authorizations and concessions, and in cases where information may be obtained visually or in public places by mere observation.

12.2 Joint inspections

The Department, represented by its officers and specially by the Ranger Corps of the Department, may conduct inspections and investigations together with authorized officers from other agencies, instrumentalities, or public corporations for the purpose of extending and facilitating its capacity to investigate compliance with the laws and regulations it administers.

12.3 Requirement of information

The Department may require information of the persons under

its jurisdiction, by virtue of the laws and regulations it administers and within the area of interest covered by said laws or regulations. Every person from whom information is requested, as provided in this section, may challenge the Department's request through an adjudicative procedure, which shall be governed by the provisions of the current version of the Department's Regulation for Adjudicative Procedures and Administrative Fines.

ARTICLE 13 - PAYMENT OF FEES

13.1 General Provisions

A. All occupancies or uses of the maritime public domain by virtue of a concession or authorization shall pay the appropriate annual fee, payable monthly to the Department of the Treasury, at the rate of: (a) one (1) dollar per square foot of area occupied for residential use, where the structure is the only home of the applicant; (b) five (5) dollars per square foot of area occupied for residential use where the structure is not the principal housing unit of the applicant (c) from seven (7) to ten (10) dollars per square foot where the structure is used for commercial, non-residential, industrial, or any other purposes.

B. In case of special authorizations the Secretary, based on the area of occupancy, will establish a fee which shall not be less than one (1) dollar per square foot, per day of occupancy.

C. Increase of between ten (10) and twenty (20) per cent may be charged above the indicated fees in those cases where the use proposed is of such nature that it may constitute a major threat or cause potential damage to the environment. Similarly, the fee may be reduced by up to ninety (90) per cent in cases of occupancies dedicated to public services without charge.

13.2 Payments

Payment of fees shall be made after notification to the applicant of the approval of the application, but prior to issuing the corresponding authorization or concession. Said payment shall be made, through money order or certified check payable to the

Secretary of the Treasury, at the Cashier's Office of the Department.

13.3 Estimates on a daily basis

Any authorization or concession shall include a daily calculation of the fees for the relevant purposes provided in this Regulation.

13.4 Report

The Receiving Officer shall submit an annual report to the Secretary of the collections received from the implementation of this Regulation.

13.5 Exemptions

The Secretary, upon request of a party, may exempt from compliance with the provisions of this article in the following cases:

A. When the authorization or concession is for new or for existing uses conforming with this Regulation, through works whose construction, maintenance and conservation are effected with public funds for the use and enjoyment of all citizens.

B. When dealing with authorizations which represent a public use or benefit, promoted or sponsored by civic associations, or non-profit corporations, or by agencies, instrumentalities, or public corporations for educational or scientific purposes.

13.6 Eviction in case of payment in arrears

Failure to pay for two(2) consecutive months shall empower the Department to declare the concession expired, and to proceed to order the eviction of the use, its demolition, and any other remedy according to law.

ARTICLE 14 - PENALTIES

14.1 Administrative Fines

Any violation of the provisions of this Regulation shall be

subject, subsequent to the holding of a hearing, to an administrative fine up to a maximum of Five Thousand (\$5,000.) Dollars for each illegal act or violation thereof. Each daily violation shall be considered a separate violation and shall be subject to an administrative fine up to a maximum of five thousand (\$5,000) dollars for each illegal act.

14.2 Effect of second offenses

In case of subsequent infringements, the Secretary may impose an additional fine up to a maximum of Ten Thousand (\$10,000.) Dollars for each illegal act. Each daily violation shall be considered a separate violation and shall be subject to the additional fine indicated.

14.3 Misdemeanor

Any violation of the provisions of this Regulation shall constitute a misdemeanor and, upon conviction, the accused shall be sentenced to pay a fine of not less than Fifty (\$50.) Dollars nor more than Five Hundred (\$500.) Dollars, or jailed for a period of not less than five (5) days nor more than ninety (90) days, or both penalties, in the discretion of the Court.

ARTICLE 15 - TRANSITIONAL MEASURES FOR EXISTING USES IN AREAS OF HIGH NATURAL VALUE WITH PRIORITY FOR CONSERVATION

15.1 General Provisions

A. The expansion or renovation of any non-water-dependent structure located in an Area of High Natural Value with Priority for Conservation shall not be permitted.

B. The reconstruction of any non-water dependent structure shall not be permitted if such structure suffered damage or is totally or partially destroyed as a result of any fire, storm, hurricane, tsunami, earthquake or any other natural event or one caused by man's hand.

C. Any non water dependent structure dedicated to providing services to the general public, such as, but not limited to, hotels, guest houses, and restaurants, located in Areas of High

Natural Value with Priority of Conservation, in existence on January 1, 1979, may be allowed, through concession, whose duration shall not in any case exceed fifteen (15) years, provided that when such concession, was effective, it complied with all other applicable provisions of this Regulation, and of the rules established by any other competent public body.

Ch. If the Department so requires, the expiration of any concession granted pursuant to this Article, the holder of such concession and/or the owner of any work situated on properties of the maritime public domain shall proceed to remove said work, at his own expense.

D. The Department may choose, in consideration of the public interest, to acquire through purchase the work mentioned above, following appropriate compensation to its owner. By appropriate compensation, it should be understood to mean the market value of the work under consideration only, after deducting the increment in such value of the place where it is situated.

15.2 Preliminary Maps of property in the maritime public domain in priority areas

A. The Department, within a term of not less than six (6) months nor more than two (2) years, after this Regulation takes effect, shall notify the public, by publishing a notice in two (2) newspapers of general circulation, of the availability of the Preliminary Partial Maps of Property in the maritime public domain in Areas of High Natural Value with Priority for Conservation ("Preliminary Partial Maps"), for review, inspection and comments.

B. In its preparation of the Preliminary Partial Maps, the Department shall give priority to the delimitation of the maritime zone in places duly identified by it as Natural Reserve Areas.

C. In each Preliminary Partial Map the Department shall delimit the interior or inland historic point of the maritime zone, making use of whatever necessary information described in Section 3.2 and additional surveying aspects to be considered under Section 3.3, but without the need of effecting a survey.

Ch. In the notice described in Section 15.2 A, the public

shall be informed of the obligation of owners or users of uses in places located within an area covered by a Preliminary Map, to comply with the obligations provided by said section.

15.3 Effect on existing uses of the publishing of Preliminary Map

A. No person shall continue uses of property in the maritime public domain, in Natural Reserve Areas, for which a Preliminary Partial Map, has been published, with due public notice. Such uses shall cease within a term of six (6) months after the notification mentioned above, unless an application is filed within said term under Article 5, and an authorization or concession is diligently being processed.

B. No concession for non-water-dependent structures in Areas of High Natural Value with Priority for Conservation for which the Department at the time of authorizing such concession, had published a Preliminary Partial Map after due notice to the public, shall extend for more than five (5) years from the date it is granted.

C. Concessions for non water dependent structures in Areas of High Natural Value with Priority for Conservation for which, a Preliminary Partial Map had not been published at the time they were granted, shall not exceed ten (10) years.

D. Every non-water-dependent use, in existence prior to the Regulation, for which an exception has not been granted, for which an application for concession pursuant to Articles 5 and 7 is not pending, which is not in the process of filing a motion to challenge, or for which a final and firm judgement in favor of the Department has been issued in a process of judicial review of a motion to challenge delimitation and for which legalization does not proceed for reasons of public interest, shall be demolished.

15.4 Exemptions

A. The Department shall exempt from the requirements of this Article any use in existence at the time of approval of the

Preliminary Map of the maritime zone belonging to any instrumentality of the Commonwealth consisting of property of public use or ownership of the Commonwealth pursuant to Article 256 of the Civil Code.

B. The Department shall exempt, for considerations of social interest, from the requirements of this Article, every existing use, consisting of housing structures, whose current value is less than \$30,000, as determined by an appraisal acceptable to the Secretary, and which constitutes the only home of its occupants, provided that no damage is being done to property in the maritime public domain of Particular Ecological Importance or existing organisms therein.

C. Every person who requests an exemption pursuant to this Section shall demonstrate to the Secretary, through Sworn Statement taken before Notary Public, and subject to penalties for perjury, that such structure is his only home and that he has carried out, and shall continue to carry out, procedures to establish his home in a place outside the property in the maritime public domain.

15.5 Administrative challenges to the Preliminary Map of the Maritime Zone

A. Every person affected by the delimitation, through a Preliminary Map of the Property in the maritime public domain, may challenge such delimitation by filing a Motion at the Department. Said Motion shall be filed within a period of no more than thirty (30) days, after the public notice provided in Section 15.2. The applicant shall demonstrate, by clear and convincing proof, that the use is outside the maritime public domain, or, as an alternative, that he possesses a valid title deed granted by the Spanish Crown, the Government of the United States of North America, or the Commonwealth, to the applicant or his predecessors in interest.

B. Every request shall be processed pursuant to the Uniform Administrative Procedures Act and the Department's Regulation for Adjudicative Procedures and Administrative Fines.

ARTICLE 16 -APPROVAL OF EMERGENCY ACTIONS

In case of emergency situations requiring rapid and immediate action to impede or eliminate any serious threat to health, safety, life, property, or the natural environment, the Department may approve any work, rebuilding or repair, or part thereof, without the need for prior approval of authorization or concession, pursuant to the following procedure.

A. A written application shall be submitted to the Department describing the location and nature of the work, rebuilding or repair to be carried out. The applicant shall specify why said work, rebuilding or repair is necessary to protect the health, safety, life, property or natural environment. The application shall be accompanied by a written statement from any public body certifying that an emergency situation exists and specifying why the proposed work, rebuilding, repair, or part of the project, is necessary to avoid or eliminate a serious and immediate threat to health, safety, life, property, or the environment.

B. The Approval of Emergency shall be in writing and shall specify the scope and extent of the activities necessary to confront and counteract the emergency.

C. When the need to carry out the emergency activity has ended, any action taken pursuant to this section shall also cease, until compliance with the applicable provisions of the Regulation. In the absence of a written extension from the Secretary, the time to carry out any emergency work shall not exceed thirty (30) days in any case.

Ch. In all cases covered by this section, the person carrying out the emergency work shall apply for an authorization or concession, within thirty (30) days from the Approval of Emergency, pursuant to the provisions of Articulo 5 unless the Secretary, in writing, grants an extension of time. After review of the application, the Department may require those modifications to the emergency work that it considers deemed necessary.

D. The Secretary may issue verbal notifications and grant verbal authorizations in emergency situations where a written

notice and authorization is not feasible.

ARTICLE 17 - EFFECT ON PROPERTY RIGHTS

This Regulation shall not be construed in any way or manner that adversely affects or impairs property rights.

ARTICLE 18 - SEPARABILITY AND EFFECTIVENESS CLAUSE

18.1 Annulment of Provision

Should any part of this Regulation be declared null or unconstitutional by a court of law with jurisdiction, such decree or judicial determination shall not affect the remaining provisions of said Regulation, which shall remain in full force and effect.

18.2 Effective Date

This Regulation shall be effective thirty (30) days after being filed with the Department of State of the Commonwealth of Puerto Rico, in accordance with the provisions of Act Number 170 of August 12, 1988, as amended, known as the Uniform Administrative Procedure Act.

ARTICLE 19 - APPROVAL

This Regulation is approved by the Secretary of Natural Resources, by virtue of the powers granted to him, as described in Article 1, Section 1.2, in San Juan, Puerto Rico; this 30 th day of December, 1992.

SANTOS ROHENA BETANCOURT
SECRETARY OF NATURAL RESOURCES