

**GOVERNMENT OF PUERTO RICO
PUERTO RICO PLANNING BOARD
San Juan, Puerto Rico**

February 1, 2023

RESOLUTION JP-2023-339

Federal Consistency Certification with the Puerto Rico Coastal Zone Management Program for Federal Assistance for Disaster and Emergencies Response

The “Stafford Act” (42 U.S.C. 5121 et seq) defines an “emergency” as any occasion or instance for which, as determined by the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States. On the other hand, this law defines “Major disaster” as any natural catastrophe (including any hurricane, tornado, storm, high water, wind driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, as determined by the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.

The island of Puerto Rico, due to its geographical location in the Caribbean, is under the constant threat of being affected by hurricanes and other atmospheric phenomena. From 2017 to the present, Puerto Rico has been affected by three disasters (Hurricanes Irma and Maria, the earthquakes in the south coast of PR, and Hurricane Fiona) for which the United States Congress allocated Federal funding through the Federal Emergency Management Agency (FEMA) to reimburse municipalities, state agencies and other eligible applicants for the cost associated to debris removal, emergency measures to protect lives and property, and repair of public infrastructure that was damaged during these events.

Natural disasters demand an agile response from the government to face, remedy and mitigate the damage that compromises social, economic, and ecological stability of Puerto Rico. Therefore, it is of public interest and vital importance to facilitate and minimize the bureaucracy for the management of available fiscal resources to execute the activities that are necessary as part of the response to a disaster.

According to Section 307 of the Coastal Zone Management Act (16 U.S.C. 1451 et seq) “each Federal Agency Activity within or outside the coastal zone that affects any land or water use, or natural resource of the coastal zone shall be carried out in a manner which is consistent to the maximum extent practicable with the enforceable policies of approved State management programs”. Regulations about Federal Consistency with approved Coastal Management Programs at 15 CFR part 930 (Subpart F) establish that applicant agencies shall submit their applications for federal assistance to the State agency for consistency review. The Puerto Rico Planning Board (PRPB) is the designated state agency in Puerto Rico to perform federal consistency reviews according to the Coastal Zone Management Act (CZMA) and applicable regulations.

From October 19, 2017 to October 3, 2018, the Puerto Rico Planning Board issued two Federal Consistency Certifications and an amendment under cases number CZ-2018-1017-010 and CZ-2019-0705-001(Resolution JP-2018-324), to cover Federal Assistance granted by FEMA for the following:

- Activities described under categories A through G of the FEMA Public Assistance Program and Policy Guide.
- Authorizations pursuant to 33 CFR 325.2(e)(4) granted by the US Army Corps of Engineers (USACE) division engineer to approve special processing procedures in emergency situations.
- Federal Assistance for Permanent Housing construction and repairs to be covered under the “Individuals and Household Program” (IHP), except for residences located within areas Special Flood Hazard Areas and landslide susceptible areas.
- Hazard mitigation projects and activities to be covered through the “Hazard Mitigation Grant Program” (HMGP) according to the “Hazard Mitigation Assistance Guidance.”

FEMA, in a letter dated October 16, 2022 requested to consolidate and extend the previously emitted Federal Consistency Certifications to cover the federal assistance granted under the disaster declaration FEMA-4671-DR-PR, issued by the President Biden after the passage of Hurricane Fiona on September 17, 2022.

After considering the information provided by FEMA in relation to the projects and activities that require immediate attention as part of the disaster response and considering Puerto Rico’s vulnerability if impacted by other natural events, the PR Planning Board in their meeting held on February 1, 2023, agreed the following:

1. The Federal assistance to be granted by FEMA for responding to emergency situations under a presidential disaster declaration is consistent with the Puerto Rico Coastal Zone Management Program when these funds are used to finance:
 - a. Activities under the categories of A to G according to the "Public Assistance Program and Policy Guide (PAPPG)".
 - b. Repairs and improvements under the “Individual and Household Program” (IHP) in compliance with the conditions established by FEMA for this program.
 - c. Projects under the “Hazard Mitigation Grant Program (HMGP)” according to the Hazard Mitigation Assistance Guidance.
2. The financing of the projects under the above-mentioned programs will not require review according to subpart F of the CFR Part 930 if it complies with the following:
 - a. Financial assistance under PA, IHP and HMGP programs does not exclude projects from complying with any other required federal or state permits and endorsements.
 - b. Where “In-kind” repair or replacement is specified for a project, “In-kind” shall mean that it is either the same or a similar material, and the result shall match all physical and visual aspects. The in-kind repairs and replacements should be limited to pre-existing architectural features and physical components of buildings and structures that were in existence prior to the event but are not extant after the event.
 - c. The recipients or subrecipients of FEMA federal assistance under these programs are not exempt from complying with the Federal Consistency Certification requirement according to section 307 of the Coastal Zone Management Act for individual federal licenses or permits according to Subpart D of the CFR part 930, that may be required for the construction of projects.
3. The following activities are also Consistent with the Puerto Rico Coastal Zone Management Program:

- a. Emergency procedures performed by the US Army Corps of Engineers as part of a response to an emergency according to regulations at 33 CFR 325.2(e)(4).
 - b. Any Federal Activity according to Subpart C of 15 CFR Part 930 performed by a federal agency to respond to or address emergency situations that endanger life and property of citizens, ecological health of natural resources and conservation of historical or archaeological resources after the occurrence of a catastrophic event or accident.
4. FEMA should submit an annual report to the PRPB on the projects considered under this certification.
 5. This certification will be valid for 5 years. If an extension is required, it can be requested to the PRPB 60 days prior to its expiration.

The following parties shall be notified: John J. Mckee, Regional Environmental Officer, FEMA; Jose E. Ayala Barbosa, Environmental and Historic Preservation Specialist, FEMA; Samantha L. Burns, Regulatory Section, Chief, U.S. Army Corps of Engineers and Cristina T. Cabrera Barros, Director, Puerto Rico Coastal Zone Management Program, DNER.

ADOPTED in San Juan, Puerto Rico today, February 1, 2023

Julio Lassús Ruiz, LLM, MP, PPL
President

Rebecca Rivera Torres, MRP, PPL
Vice-President

José Díaz Díaz, MEM, BSIE
Associate Member

Lemuel Rivera Rivera, BSEE, CAPM
Associate Member

Certification: This Resolution is copy of the agreement adopted by Puerto Rico Planning Board (PRPB) in its meeting held on **February 1, 2023**. I issue and notify this copy to the parties under my signature and the official stamp of the Puerto Rico Planning Board, for general use and knowledge.

In San Juan, Puerto Rico, today **MAR 01 2023**-

Georgina González Oller
Secretary