

TITLE 1: GOVERNMENT
DIVISION 2: EXECUTIVE BRANCH

§ 2646. Division of Environmental Quality.

There is in the Department of Public Health and Environmental Services a Division of Environmental Quality, to be headed by a chief. The chief shall serve under the direct supervision of the Director of Public Health and Environmental Services.

Source: PL 3-23, § 5, modified.

Commission Comment: PL 3-23, the “Commonwealth Environmental Protection Act,” took effect October 8, 1982. See also 2 CMC § 3101 et seq.

Executive Order 94-3, the “Second Reorganization Plan of 1994” (effective August 23, 1994), reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3, § 304(d):

Section 304. Department of Public Works.

. . . .

(d) **Environmental Quality.** The Division of Environmental Quality is transferred from the Department of Public Health to the Department of Public Works. To the maximum extent practicable, the Secretary of Public Works shall integrate land-based earth moving permits into the building permit process. **[This subsection 304(d) VACATED by PL 11-108, § 2]**

The full text of Executive Order 94-3 is set forth in the Commission comment to 1 CMC § 2001.

PL 11-108 vacated § 304(d) of Executive Order 94-3, returning the responsibility of administering the Division of Environmental Quality to the Office of the Governor. PL 11-108 took effect December 3, 1999. The pertinent provisions of PL 11-108 are as follows:

Section 1. Findings. The Legislature finds that to more appropriately carry out the policy and purpose of the Commonwealth Environmental Protection Act, the Division of Environmental Quality should be reclassified as an independent regulatory agency, acting from within the Office of the Governor. A sound environmental administration must consider the divergent interests of all government departments, while also serving the total public constituency and the private business sector. We feel that these goals can be more efficiently met if the DEQ is removed from the constraints of working from within the Department of Public Works. Having a regulatory agency such as DEQ placed within a department that it is tasked to regulate both diminishes its ability to carry out its mandated duties, and creates an inherent conflict of interest. As such, we feel that DEQ should become an independent and impartial agency, protecting our island community’s most valuable resource, our environment.

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Section 2. Repealed. E.O. 94-3 §304 (d) is hereby vacated in its entirety.

Section 3. Placement in the Office of the Governor. All administrative duties and authority with regards to the Division of Environmental Quality is hereby placed with the Office of the Governor, or his designee, and any funds, records, property and personnel transferred the Department of Public Works pursuant to E.O. 94-3 304 § (d) shall revert Office of the Governor, Division of Environmental Quality.

Section 4. Severability. If any provision of this Act or the application of any such provision to any person or circumstance should be held invalid by a court of competent jurisdiction, the remainder of this Act or the application of its provisions to persons or circumstances other than those to which it is held invalid shall not be affected thereby.

Section 5. Savings Clause. This Act and any repealer contained herein shall not be construed as affecting any existing right acquired under contract or acquired under statutes repealed or under any rule, regulation or order adopted under the statutes. Repealers contained in this Act shall not affect any proceeding instituted under or pursuant to prior law. The enactment of this Act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this Act becomes effective.