

EXECUTIVE REORGANIZATION ORDER
E.R.O. No. 1995-16

324.99903 Creation of department of environmental quality; transfer of certain powers and duties from department of natural resources to department of environmental quality.

WHEREAS, Article V, Section 1, of the Constitution of the State of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, Article V, Section 8, of the Constitution of the State of Michigan of 1963 provides that each principal department shall be under the supervision of the Governor, unless otherwise provided in the Constitution; and

WHEREAS, the people of the State of Michigan have consistently demonstrated the importance they place on both natural resource management and protection of Michigan's unique environmental qualities; and

WHEREAS, maintaining a quality environment and sound management of our unique natural resources are of paramount importance to the Governor of the Great Lakes State; and

WHEREAS, natural resource management and environmental regulatory programs face a growing number of challenges to ensure that Michigan's quality of life is enhanced for current and future generations; and

WHEREAS, events have demonstrated the need to address environmental issues on a watershed basis and place additional focus on nonpoint sources of pollution; and

WHEREAS, environmental protection and resource management often have competing priorities that can best be addressed if these critical functions have cabinet level status as separate departments; and

WHEREAS, certain functions, duties and responsibilities currently assigned to the Michigan Department of Natural Resources can be more effectively carried out by the director of a new principal department; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

1. The Michigan Department of Environmental Quality is created as a principal department within the Executive Branch.

2. The Director of the Michigan Department of Environmental Quality shall be appointed by the Governor and shall serve at the pleasure of the Governor.

3. All the statutory authority, powers, duties, functions and responsibilities of the:

a. Air Quality Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 451 of the Public Acts of 1994, as amended, being Section 324.5501 et seq. of the Michigan Compiled Laws;

b. Environmental Response Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 451 of the Public Acts of 1994, as amended, being Section 324.20101 et seq. of the Michigan Compiled Laws;

c. Environmental Assistance Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 451 of the Public Acts of 1994, as amended, being Sections 324.3101 et seq., 324.4101 et seq., 324.4901 et seq., 324.5301 et seq., 324.5701 et seq., 324.14301 et seq. and 324.14501 et seq. of the Michigan Compiled Laws;

d. Surface Water Quality Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 451 of the Public Acts of 1994, as amended, being Section 324.3101 et seq., 324.4101 et seq., 324.4301 et seq. and 324.5101 et seq. of the Michigan Compiled Laws;

e. Underground Storage Tank Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Executive Order 1994-4 and Act No. 451 of the Public Acts of 1994, as amended, being Sections 324.21101 et seq., 324.21301 et seq. and 324.21501 et seq. of the Michigan Compiled Laws;

f. Waste Management Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 451 of the Public Acts of 1994, as amended, being Sections 324.3101 et seq., 324.5101 et seq., 324.11101 et seq., 324.11301 et seq., 324.11501 et seq., 324.11701 et seq., 324.12101 et seq., 324.14701 et seq., 324.16101 et seq., 324.16301 et seq., 324.16501 et seq., 324.16701 et seq., 324.16901 et seq., 324.17101 et seq. and 324.19101 et seq. of the Michigan Compiled Laws;

g. Office of Administrative Hearings, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Executive Order 1995-4;

h. Office of the Great Lakes, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 59 of the Public Acts of 1995, being Sections 324.32903, 324.32904 and 324.33101 et seq. of the Michigan Compiled Laws;

i. Coordinator of Environmental Education, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 310 of the Public Acts of 1994, being Section 299.34 of the Michigan Compiled Laws; and

j. Environmental Education Advisory Committee, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 310 of the Public Acts of 1994, being Section 299.35 of the Michigan Compiled Laws of the Michigan Department of Natural Resources, are hereby transferred to the Director of the Michigan Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

4. All the statutory authority, powers, duties, functions and responsibilities of the Environmental Investigations Unit of the Law Enforcement Division of the Michigan Department of Natural Resources are transferred to the Director of the Michigan Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

5. All the statutory authority, powers, duties, functions and responsibilities of the Geological Survey Division, including but not limited to the relevant authority, powers, duties, functions and responsibilities set forth in Chapter 3 of Act No. 57 of the Public Acts of 1995, with the exception of the geological resource evaluation and mapping program and the groundwater database program of the Michigan Department of Natural Resources, are transferred to the Director of the Michigan Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

6. All the statutory authority, powers, duties, functions and responsibilities of the Land and Water Management Division, including but not limited to the authority, powers, duties, functions and responsibilities set forth in Act No. 59 of the Public Acts of 1995, being Sections 324.30101 et seq., 324.30301 et seq., 324.30701 et seq., 324.32301 et seq., 324.32501 et seq., 324.33701 et seq. and 324.35301 et seq., of the Michigan Compiled Laws, with the exception of the farmland and open space preservation program, natural rivers program, and the Michigan information resource inventory system of the Michigan Department of Natural Resources, are transferred to the Director of the Michigan Department of Environmental Quality by a Type II transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, being Section 16.103 of the Michigan Compiled Laws.

7. All authority to make decisions regarding administrative appeals associated with the transfers referred to in paragraphs 3, 5 and 6 above, which reside with the Commission of Natural Resources or the Michigan Department of Natural Resources, are transferred to the Director of the Michigan Department of Environmental Quality. In the event the Director is directly involved in an initial decision which is subsequently appealed through the Office of Administrative Hearings and to the Director for a decision, the Director shall appoint an individual within or outside the Michigan Department of Environmental Quality to decide the appeal.

8. All authority to establish general policies associated with the functions transferred in paragraphs 3, 4, 5 and 6 above, which reside with the Commission of Natural Resources or the Michigan Department of Natural Resources, are transferred to the Director of the Michigan Department of Environmental Quality.

9. All authority related to paragraphs 3, 4, 5 and 6 above, which reside with the Director, the Office of Director, the Deputy Director of Environmental Protection or the Office of the Deputy Director of Environmental Protection of the Michigan Department of Natural Resources, are transferred to the Director of the Michigan Department of Environmental Quality. This transfer shall specifically include the authority, duties, powers, functions and responsibilities of the Director of the Department of Natural Resources and/or the Department of Natural Resources set forth in Act No. 57 of the Public Acts of 1995, being Section 324.61501 et seq. of the Michigan Compiled Laws.

10. The Director of the Michigan Department of Environmental Quality shall provide executive direction and supervision for the implementation of the transfers. The assigned functions shall be administered under the direction and supervision of the Director of the Michigan Department of Environmental Quality, and all related prescribed functions of rule-making, licensing and registration, including the prescription of rules, regulations, standards and adjudications, shall be transferred to the Director of the Michigan Department of Environmental Quality consistent with Executive Order 1995-6.

11. The Director of the Michigan Department of Environmental Quality may perform a duty or exercise a

power conferred by law or this Order upon the Director of the Michigan Department of Environmental Quality at the time and to the extent the duty or power is delegated to the Director of the Michigan Department of Environmental Quality by law or by this Order.

12. The Director of the Michigan Department of Environmental Quality may by written instrument delegate a duty or a power conferred by law or this Order and the person to whom such duty or power is so delegated may perform such duty or exercise such power at the time and to the extent that such duty or power is delegated by the Director.

13. Decisions made by the Director of the Michigan Department of Environmental Quality or persons to whom the Director has lawfully delegated decision-making authority, pursuant to this Order relating to natural resource management or environmental protection, shall be final when reduced to writing and delivered to all affected persons, unless otherwise provided by law.

14. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available to or to be made available to the activities, powers, duties, functions and responsibilities transferred to the Michigan Department of Environmental Quality by this Order are transferred to the Michigan Department of Environmental Quality.

15. The Directors of the Michigan Department of Natural Resources and the Michigan Department of Environmental Quality shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

16. The Director of the Michigan Department of Natural Resources and the Deputy Director for Environmental Protection of the Michigan Department of Natural Resources shall immediately initiate coordination to facilitate the transfers and develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and state laws and regulations, or other obligations to be resolved by the Michigan Department of Environmental Quality.

17. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

18. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

In fulfillment of the requirement of Article V, Section 2, of the Constitution of the State of Michigan of 1963, the provisions of this Executive Order shall become effective October 1, 1995, at 12:01 a.m.

History: 1995, E.R.O. No. 1995-16, Eff. Oct. 1, 1995.

Compiler's note: For abolishment of the laboratory data quality assurance advisory council and transfer of its powers and duties to the department of environmental quality, see E.R.O. No. 2007-6, compiled at MCL 324.99908.

For transfer of powers and duties of department of environmental quality to department of natural resources and environment, and abolishment of the department of environmental quality, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of the office of the Great Lakes from department of environmental quality to department of natural resources and environment, see E.R.O. No. 2009-31, compiled at MCL 324.99919.

For transfer of office of Great Lakes from department of natural resources and environment to department of environmental quality, see E.R.O. No. 2011-1, compiled at MCL 324.99921.

For transfer of office of the Great Lakes from department of environmental quality to department of natural resources, see E.R.O. No. 2017-5, compiled at MCL 324.99922.

Administrative rules: R 336.1101 et seq.; R 336.1122; and R 336.1201 et seq. of the Michigan Administrative Code.