



# STATE OF MICHIGAN

JOHN ENGLER  
GOVERNOR

EXECUTIVE ORDER  
1991-31

COMMISSION OF NATURAL RESOURCES  
DEPARTMENT OF NATURAL RESOURCES  
MICHIGAN DEPARTMENT OF NATURAL RESOURCES

EXECUTIVE REORGANIZATION

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by Article V, Section 1, Article V, Section 2 and Article V, Section 8, of the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

## I. GENERAL

### A. New Michigan Department of Natural Resources

1. All the statutory authority, powers, duties, functions and responsibilities of the Commission of Natural Resources and of the Department of Natural Resources, created under Sections 1 and 2 of Act No. 17 of the Public Acts of 1921, as amended, being Sections 299.1 and 299.2 of the Michigan Compiled Laws, and under Sections 250 - 254 of Act No. 380 of the Public Acts of 1965, as amended, being Sections 16.350 to 16.354 of the Michigan Compiled Laws, and of the director of the Department of Natural Resources and of the agencies, boards and commissions contained therein, including the functions of budget, procurement and management-related functions, and the functions set out more particularly in Part II below relating to natural resources management and the functions set out more particularly in Part III below relating to environmental protection are hereby transferred to the director of a new Michigan Department of Natural Resources, 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, unless otherwise specified in Part II below or in Part III below and with the following exceptions:

- a. Pursuant to Article V, Sections 1, 2 and 8, of the Constitution of the State of Michigan of 1963, the power to designate a member of the Commission of Natural Resources as chairperson is hereby transferred to and vested in the Governor and such member appointed by the Governor shall serve as chairperson at the pleasure of the Governor.
- b. The director of the new Michigan Department of Natural Resources shall continue to be appointed by the Commission of Natural Resources and shall continue to serve at its pleasure.
- c. The Commission of Natural Resources may promulgate rules, not inconsistent with the law and with this Order, governing its organization and procedure.
- d. The Commission of Natural Resources shall, pursuant to Article V, Section 3, of the Constitution of the State of Michigan of 1963, be the head of the new Michigan Department of Natural Resources and may establish general policies relating to natural resources management and environmental protection for the guidance of the Director of the new Michigan Department of Natural Resources. Pursuant to Article V, Section 8, of the Constitution of the State of Michigan of 1963, the Commission of Natural Resources and the new Michigan Department of Natural Resources shall be under the supervision of the Governor.
- e. A final decision of the director of the new Michigan Department of Natural Resources or persons to whom the director has lawfully delegated decision-making authority pursuant to this Order relating to the issuance of a permit or operating license is subject to direct review by the Commission of Natural Resources as provided in Part IV, B below.

2. The director of the new Michigan Department of Natural Resources shall provide executive direction and supervision for the implementation of the transfer. The functions transferred to the new Michigan Department of Natural Resources by this Order, with the exception of those functions set out in Section A(1) a, b, c, d and e above, shall be administered under the direction and supervision of the director of the new Michigan Department of Natural Resources and all prescribed functions, unless otherwise specified herein, of rule making, licensing and registration, including the prescription of rules, regulations, standards and adjudications shall, unless otherwise specified herein, be transferred to the director of the new Michigan Department of Natural Resources.

4. All rules, orders, contracts and agreements relating to the functions transferred to the new Michigan Department of Natural Resources lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

5. 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.

**B. Department of Natural Resources**

By virtue of this Order, the Department of Natural Resources is hereby abolished and its functions, duties and responsibilities transferred as set out herein.

### **III. ENVIRONMENTAL PROTECTION**

#### **A. Air Quality**

1. The Vehicle Emissions Inspection and Maintenance Act, Act No. 83 of the Public Acts of 1980, as amended, being Section 257.1051 et seq. of the Michigan Compiled Laws.

2. The Air Pollution Act, Act No. 348 of the Public Acts of 1965, as amended, being Section 336.11 et seq. of the Michigan Compiled Laws, the Air Pollution Control Commission created thereby is transferred by a Type III 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 and the Air Pollution Control Commission is hereby abolished.

#### **D. Other**

1. All the statutory authority, powers, duties and functions of the Commission of Natural Resources, the Department of Natural Resources and the director of the Department of Natural Resources and of the agencies, boards and commissions contained therein under the Thomas J. Anderson, Gordon Rockwell Environmental Protection Act of 1970, Act No. 127 of the Public Acts of 1970, being Section 691.1201 et seq. of the Michigan Compiled Laws.

2. Except as otherwise provided herein, all the statutory authority, powers, duties and functions of the Commission of Natural Resources, the Department of Natural Resources and the director of the Department of Natural Resources and of the agencies, boards and commissions contained therein relating to environmental protection under the Public Health Code, Act No. 368 of the Public Acts of 1978, as amended, being Section 333.1001 et seq. of the Michigan Compiled Laws.

#### **IV. MISCELLANEOUS**

##### **A. Delegations**

1. The director of the new Michigan Department of Natural Resources may perform a duty or exercise a power conferred by law or this Order upon the director at the time and to the extent the duty or power is delegated to the director by law or by this Order.

2. The director of the new Michigan Department of Natural Resources 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.

3. Decisions made by the director of the new Michigan Department of Natural Resources or persons to whom the director has lawfully delegated decision-making authority pursuant to this Order relating to natural resources management or environmental protection shall be final when reduced to writing and delivered to all affected persons, unless otherwise provided by law.

##### **B. Adjudications**

###### **1. General**

a. When a person is aggrieved by a final decision of the director of the new Michigan Department of Natural Resources or persons to whom the director has lawfully delegated decision-making authority pursuant to this Order relating to natural resources management or environmental protection, except for a decision relating to the issuance of a permit or operating license, whether such decision is affirmative or negative in form, the decision is subject to direct review by the courts as provided by law and in accordance with the general court rules. A preliminary, procedural or intermediate action or ruling is not immediately reviewable, except that the court may grant leave for review of such action if review of the final decision would not provide an adequate remedy.

b. Judicial review of a final decision shall be as provided by law and in accordance with the general court rules.

## 2. Permits and Operating Licenses

a. When a person is aggrieved by a decision of the director of the new Michigan Department of Natural Resources or persons to whom the director has lawfully delegated decision-making authority pursuant to this Order relating to functions, duties and responsibilities for the issuance of a permit or operating license transferred by this Order, whether such decision is affirmative or negative in form, the person may seek to direct review by the Commission of Natural Resources of such decision within the time period provided by law or rule. A preliminary, procedural or intermediate action or ruling is not immediately reviewable, except that the Commission of Natural Resources may grant leave for review of such action.

b. The Commission of Natural Resources may utilize administrative law judges or hearing officers employed by the new Michigan Department of Natural Resources to conduct such reviews as contested cases and to issue proposals for decisions as provided by law or rule.

c. When a person is aggrieved by a final decision of the Commission of Natural Resources relating to the issuance of a permit or operating license, whether such decision is affirmative or negative in form, the decision is subject to direct review by the courts as provided by law. A preliminary, procedural or intermediate action or ruling is not immediately reviewable, except that the court may grant leave for review of such action if review of the final decision would not provide an adequate remedy.

d. Judicial review of a final decision shall be as provided by law and in accordance with the general court rules

## C. Rescissions

1. Executive Order 1969-1 (Advisory Council on Environmental Quality), Executive Order 1973-9 (Establishing the Michigan Environmental Review Board), Section 54 of Executive Order 1980-1A (Executive Branch Reorganization), Executive Order 1989-3 (Establishment of the Governor's Council on Environmental Quality), and Executive Order 1989-8 (Amending Executive Order 1989-3), are hereby rescinded.

2. The rescissions of Executive Order 1974-4 (Establishing the Michigan Environmental Review Board), and Executive Order 1983-14 (Establishment of the Cabinet Council on Environmental Protection), are hereby ratified.

4. Section 5 of Executive Order 1973-2 (Transfer and Consolidation of Environmental Functions), transferring certain statutory authority, powers, duties, functions and responsibilities from the Department of Public Health to the Department of Natural Resources and Section 6 of such Executive Order, as modified by Section 2c of Executive Order 1976-8 (Modifying Executive Order 1973-2), transferring certain statutory authority, powers, duties, functions and responsibilities from the Department of Agriculture to the Department of Natural Resources are retained in effect insofar as such sections transferred such authority, powers, duties, functions and responsibilities to the Department of Natural Resources, subject to and to the extent not inconsistent

with the provisions of this Order. The remaining Sections of Executive Order 1973-2 and Executive Order 1976-8 are hereby rescinded. The rescision of Executive Order 1973-2a is hereby ratified.

**D. Validity**

The invalidity of any portion of this Order shall not affect the validity of the remainder thereof.

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 60 days after the filing of this Order.



Given under my hand and the Great Seal of the State of Michigan this 8th day of November, in the Year of our Lord, One Thousand Nine Hundred Ninety-One, and of the Commonwealth, One Hundred Fifty-Five.

  
GOVERNOR

BY THE GOVERNOR:

  
SECRETARY OF STATE

Filed with Secretary of State  
on 11-9-91 at 10:03am