

TITLE 2: NATURAL RESOURCES
DIVISION 2: PORTS

§ 2121. Commonwealth Ports Authority.

There is in the Commonwealth government a public corporation called the Commonwealth Ports Authority. Its functions are governmental and public and it may sue and be sued in its own name. The principal office of the authority is at Saipan, Mariana Islands.

Source: PL 2-48, §§ 4, 5, modified.

Commission Comment: 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(a):

Section 304. Department of Public Works.

(a) **Commonwealth Ports Authority.** The Commonwealth Ports Authority is allocated to the Department of Public Works for purposes of administration and coordination. **[This subsection 304(a) VACATED by PL 11-109, § 2(b)]**

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

PL 11-109 vacated all provisions and impact of Executive Order 94-3 relative to the Commonwealth Ports Authority and reestablished the same existed, and under the provisions of law then in effect, immediately prior to the effective date of Executive Order 94-3. PL 11-109 took effect December 21, 1999. The pertinent provisions of PL 11-109 are as follows:

Section 1. Findings. The Legislature finds that the reorganization of the government pursuant to Executive Order 94-3 (“E.O. 94-3”) unnecessarily and arguably unconstitutionally reallocated functions and duties of previously autonomous or independent agencies of government into executive branch departments. One such autonomous agency is the Commonwealth Ports Authority (“CPA”) which was allocated for the purposes of administration and coordination to the Department of Public Works; another such independent agency is the Coastal Resources management Council and Coastal Resources Management Office (“CRM”) which was transferred to the Department of Lands and Natural Resources. The Legislature further finds that the reorganization of these entities pursuant to E.O. 94-3 is inconsistent with their respective mission and duties.

It is the purpose of this Act to return CPA, and CRM to the state in which they existed prior to August 23, 1994, the effective date of E.O. 94-3 and to reenact, to the extent necessary, all provisions of law concerning CPA and CRM, affected E.O. 94-3. Therefore, the Legislature intends that this Act vacate each every provision or application of E.O. 94-3 which affects in any manner whatsoever the functions, locations, and duties of CPA, and CRM.

Section 2. Repealer.

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(a) Section 206 of Executive Order 94-3 is hereby vacated in its entirety.

(b) Section 304(a) of Executive Order 94-3 is hereby vacated in its entirety.

Section 4. Commonwealth Ports Authority. Chapter 1 of Division 2 of Title 2 of the Commonwealth Code is hereby reenacted in its entirety to restore any and all provisions of said chapter affected by Executive Order 94-3. Any functions, records, funds, property or personnel transferred pursuant to Sections 503, 504, and/or 505 of Executive Order 94-3 are hereby transferred back and returned to the Commonwealth Ports Authority.

Section 5. Reactivation. Subject to other requirements or provisions of law, any agencies requiring reactivation as a result of this Act shall be reactivated in the manner described by the Governor in his approval letter for Public Law 11-47.

Section 6. 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.

Executive Order 08-05 (“Re-organization Plan No. 02 of 2008”) signed on May 13, 2008, allocated the Commonwealth Ports Authority to the Office of the Governor for a period of 120 days upon the effective date of the organization plan. 30 Com. Reg. 28762 (Sept. 25, 2008). Section 206 of Executive Order 08-05 notes that the Reorganization Plan “shall become effective sixty days after submission to the Legislature, unless specifically modified or disapproved by a majority of members of each house of the Legislature . . .” 30 Com. Reg. 28764 (Sept. 25, 2008).