

Executive Order No. 215 of 1989

ENVIRONMENTAL ASSESSMENT

NEW JERSEY DEPARTMENT OF ENVIRONMENTAL PROTECTION

STATE OF NEW JERSEY
Department of Environmental Protection

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EXECUTIVE ORDER NO. 215 OF 1989

ENVIRONMENTAL ASSESSMENT

Governor Thomas H. Kean signed the attached Executive Order No. 215 (EO #215) on September 11, 1989. The Executive Order rescinds Governor Cahill's Executive Order No. 53 (1973). EO #215 requires departments, agencies and authorities of the State to prepare and submit to the New Jersey Department of Environmental Protection (NJDEP) an environmental assessment (EA) or environmental impact statement (EIS) (as specified in the Order) in support of major construction projects. Guidelines for the preparation of the EA/EIS are also attached (revised 2002). The objective of this Order is to reduce or eliminate any potential adverse environmental impacts of projects initiated or funded by the State.

Ken Koschek of the NJDEP's Office of Permit Coordination and Environmental Review is responsible for the administration of EO #215. Please contact him if you have any questions regarding the order.

All required EA/EIS submissions should be made to the Office of Permit Coordination and Environmental Review by the agency undertaking or funding the project. Six copies of the document are required. Please note, the review schedule is included in the Order.

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WHEREAS, the protection of the environment, which is the subject of a public trust administered by government for the benefit of all citizens, is a primary responsibility of State government; and

WHEREAS, government must not only regulate but also must provide an example in the effort to protect the human environment and the natural resources of the State; and

WHEREAS, the design and location of projects initiated or funded by departments, agencies or authorities of State government may have significant primary and consequential effects on the environment; and

WHEREAS, the protection of the environment, the management of development, and the prudent use of the State's limited land and other resources will be fostered by the proper location and design of projects initiated or funded by departments, agencies or authorities of State government; and

WHEREAS, the potentially adverse environmental impact of projects initiated or funded by departments, agencies or authorities of State government can be substantially reduced or eliminated if that impact is assessed before the approval of such project and agreement reached on the ways and means to ensure environmental compatibility;

NOW, THEREFORE, I, THOMAS H. KEAN, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby ORDER AND DIRECT:

1. All departments, agencies and authorities of the State shall prepare and submit to the Department of Environmental Protection an environmental assessment or environmental impact statement, as specified below, in support of major construction projects. Projects directly initiated by departments, agencies, or authorities of the State, as well as projects in which the State departments, agencies or authorities are granting at least 20 percent financial assistance, shall comply with this Order.

For the purpose of determining an appropriate level of review, projects shall be categorized as follows:

a) Level 1 - projects with anticipated construction costs in excess of \$1 million shall be subject to the preparation of an environmental assessment. The assessment shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order. Alternatively,

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environmental assessments prepared to support a "Finding of No Significant Impact" under the National Environmental Policy Act may be substituted for an assessment otherwise required pursuant to the attached Department of Environmental Protection guidelines; or

b) Level 2 - projects with both construction costs in excess of \$5 million and land disturbance in excess of five acres shall be subject to the preparation of an environmental impact statement. The statement shall follow guidelines prepared by the Department of Environmental Protection, attached herewith to this Order.

2. The assessment or impact statement shall be submitted by the proposing or granting department, agency or authority and reviewed by the Department of Environmental Protection as early in the project planning and design process as possible, but in all cases such submission and the review process which follows must be completed prior to commencing site preparation and/or construction activity on the project. In the case of any project to be funded by a department, agency, or authority of the State, review of the assessment or impact statement must be completed by the Department of Environmental Protection prior to awarding any financial assistance for the commencement of site preparation and/or construction activity.

3. Upon receipt of an environmental assessment or impact statement the Department of Environmental Protection shall undertake a review to determine whether the documents submitted are administratively complete. Within 20 days of receipt, the Department of Environmental Protection shall either certify that the environmental assessment or impact statement is administratively complete and conforms to the guidelines attached herewith to this Order, or specify in writing to the proposing or granting department, agency or authority that the environmental assessment or impact statement is administratively deficient. If deemed deficient, the proposing or granting department, agency or authority shall correct such deficiency or deficiencies as specified by the Department of Environmental Protection and may resubmit the environmental assessment or impact statement at any time thereafter for review by the Department. Within sixty (60) days of the Department of Environmental Protection's receipt of an environmental assessment or impact statement determined to be administratively complete, the Department shall conclude its review of such

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assessment or impact statement. If the Department of Environmental Protection has not concluded its review of the assessment or impact statement within this sixty-day period, the project shall be deemed approved.

4. Upon concluding its review, the Department of Environmental Protection shall provide a written response to the proposing or granting department, agency or authority. The response shall include the following:

- a) identification of any probable adverse environmental impacts that could be expected from project implementation;
- b) an identification of any Department of Environmental Protection permits or regulatory requirements which will be applicable to the proposed project; and
- c) recommendations including, but not limited to:
 - i) approval based on the representations made in the assessment or impact statement;
 - ii) conditional approval, including receipt of permits and/or measures to reduce and/or mitigate the anticipated impacts to an acceptable level;
 - iii) an additional impact assessment on one or more specific environmental consequences;
 - iv) project modifications to avoid adverse environmental impacts; and
 - v) major restructuring of the project.

5. Within thirty (30) days of receiving the Department of Environmental Protection's recommendation(s), the proposing or granting department, agency or authority shall provide the Department of Environmental Protection with a written response either indicating acceptance of the Department of Environmental Protection's recommendation(s) or setting forth issues remaining in dispute.

6. Any dispute regarding implementation of the Department of Environmental Protection's recommendation(s) shall be resolved in good faith through meetings between the Commissioner of Environmental Protection and the Commissioner, Chairman or agency head of the proposing or granting department, agency or authority.

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7. Notwithstanding the anticipated construction costs or land disturbance involved, the provisions of this Order shall not apply to the following types of projects:
- a) maintenance or repair projects;
 - b) facilities or equipment replaced in kind at the same location;
 - c) renovations or rehabilitation of existing buildings;
 - d) expansions or additions of existing buildings provided that the expansion or addition does not increase the building's capacity by more than 25 percent;
 - e) projects subject to review pursuant to the provisions of the Coastal Area Facility Review Act or the Municipal Wastewater Treatment Financing Program;
 - f) projects which will require a full environmental impact statement pursuant to the National Environmental Policy Act;
 - g) projects classified as categorical exclusions pursuant to regulations promulgated in accordance with the National Environmental Policy Act; or
 - h) projects involving loans or tax exempt financing to private sector applicants by departments, agencies or authorities of the State of New Jersey.
8. This Order shall not apply to authorities or commissions created pursuant to interstate agreements.
9. This Order shall not apply to projects previously exempt from Governor Cahill's Executive Order No. 53 (1973) where final plans and specifications have been completed on such projects prior to this Order taking effect.
10. Governor Cahill's Executive Order No. 53 (1973) is hereby rescinded.
11. This Order Shall take effect immediately.

GIVEN, under my hand and seal, this
11th day of **September**
in the Year of Our Lord, one
thousand nine hundred and
eighty-nine, and of the
Independence of the United
States, the two hundred and
fourteenth.

/s/ Thomas H. Kean
GOVERNOR

**ATTACHMENT TO
EXECUTIVE ORDER NO. 215 OF 1989
GUIDELINES FOR THE PREPARATION OF AN
ENVIRONMENTAL IMPACT STATEMENT / ENVIRONMENTAL ASSESSMENT
(Revised and Updated - April 23, 2002)**

An environmental impact statement/environmental assessment shall provide all of the information needed to evaluate the effects of the proposed project upon the environment. The scope of an environmental impact statement (EIS) or environmental assessment (EA) may be jointly agreed upon by the proposing or granting department, agency or authority and the Department of Environmental Protection. In the event mutual agreement is not reached, the form and content of an EIS or EA shall follow these guidelines. If any section is clearly inappropriate to the proposed undertaking, so state as "not applicable."

An EA is a less comprehensive and less rigorous version of an EIS and does not require an analysis of project alternatives. The level of project description and graphics, (maps, site plans, etc.) should be similar to that which is required in an EIS. However, the description of the existing environment and the level of impact analysis in an EA should be comparatively brief as opposed to the comprehensive descriptions and analyses contained in an EIS. Further, all items referenced in a particular category may not be applicable to an EA (see below); when such items are not applicable and hence not addressed, the EA should so indicate. The items to be covered in the EA are designed with an asterisk (*) in the left-hand margin of the following guidelines.

The EIS/EA shall be prepared by the project sponsor or its consultant(s) using a systematic interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental design arts. The EIS/EA should clearly identify the authors and their qualifications.

I. A DESCRIPTION OF THE PROPOSED PROJECT

Included in this section will be a comprehensive (*brief) description of the project as outlined in the following categories:

- * A. Identity of the project sponsor.
- * B. Explain the purpose of the proposed project, including a description of the constituency to be served by the project, the services being provided, and the extent of benefits realized by the department, agency or authority and the community within which the project is to be located.

- * C. Describe the regional, municipal and/or neighborhood setting of the project.
- * D. Describe the project design and operational features including:
 - * 1. a site plan of the project.
 - 2. a description of the construction phase that identifies:
 - a. the development of schedule and construction phasing;
 - b. the work force required;
 - c. construction traffic;
 - * d. site preparation, including clearing, excavating, filling and cutting, burning, and blasting; and
 - * e. precautions taken (noise control, dust control, erosion and sedimentation control, or temporary sanitation).
 - 3. a description of the operation phase including:
 - a. the capacity of the facility;
 - b. the work force required;
 - * c. discharges and emissions (both point sources and non-point sources);
 - d. use of resources.
 - * 4. the availability of infrastructure for public sewerage, water, roads, and utilities.
- * E. Whenever possible, a listing of licenses, permits and certifications necessary for approval of the project and a description of the status of each. Include the status of any hazardous substances or waste site remediation activities triggered by the Industrial Site Recovery Act (ISRA), the Underground Storage Of Hazardous Substances Act or other State or federal regulations.

II. A DESCRIPTION OF THE ENVIRONMENT PRIOR TO THE IMPLEMENTATION OF THE PROJECT

Include a comprehensive (*brief) description of existing environmental conditions in each of the following areas:

- * A. Natural resources of the site and surrounding area - describe geological character, soil characteristics, land form (i.e. wetlands, steep slopes, etc.), hydrological features, and biological resources of the area including State and federal threatened and endangered species and critical habitats.

- * B. Man-made resources - present site land use, adjacent land uses, access, the presence of any hazardous substances or waste, the presence of any underground storage tanks or structures, abandoned wells not properly sealed, transportation patterns, and zoning.
- * C. Human resources - cultural and social factors; park and recreational facilities; aesthetic features; historical, archeological, and architectural aspects of the environment.

III. THE PROBABLE ENVIRONMENTAL IMPACTS OF THE PROJECT IF IMPLEMENTED

Identify and describe direct, indirect and cumulative impacts, beneficial and adverse, anticipated from the proposed project on all natural, man-made, human and economic resources during all aspects of site preparation, construction, and project operation.

Using the existing environment without the project as a basis for analyzing anticipated impacts, provided the following information:

- * A. Land:
 - * 1. discuss the consistency of the proposed action with the State Development and Redevelopment Plan and approved federal, State, regional and local land use plans. Identify instances where land use practices, even though accepted, would pose an environmental problem;
 - * 2. discuss how the area is currently zoned and the relationship of such zoning to the proposed action;
 - 3. discuss how the proposal will encourage or discourage residential, commercial or industrial growth to the extent that it will change the character and economy of the area; and
 - * 4. discuss whether the proposed action will result in the loss or alteration of any ecologically sensitive lands such as flood plains, steep slopes, wetlands, preserved farmland and dedicated open space.
- * B. Water:
 - * 1. identify and discuss any potential instances of non-compliance with approved State water quality standards

arising from the proposed project, with particular attention to low flow periods;

- * 2. discuss whether or not the proposed project will result in increased pollution or turbidity levels within a surface waterbody and, if so, what the effects will be downstream and upstream;
- * 3. discuss the beneficial and adverse effects of the proposed action on aquatic biota and habitats;
- * 4. discuss the effects that the proposed action will have on ground water quality and quantity and the basis of the determination;
- * 5. discuss whether there will be any depletion of water as a result of the proposed action;
- * 6. discuss whether there will be any increased incidence of flooding caused by structural obstructions or increased flow due to the proposed project. Include the probable effects in terms of flood levels, channel erosion, velocity, and siltation of stream channels; and
- * 7. discuss any cumulative effects.

C. Air:

- 1. for major transportation projects, as appropriate and on a case by case basis, perform diffusion modeling of the effect of the proposed action on local and regional air quality. All aspects of the project (including mobile sources) should be given consideration in terms of possible receptor sites of air pollutants directly or indirectly generated from the proposed project. Include a discussion of the cumulative aspects. Discuss present and projected ambient air quality data so that direct comparisons may be made among present air quality, projected air quality, and governing air quality standards. The evaluation of air quality shall be based on complete diffusion climatology, providing references. The applicant must also provide information on the status of the proposed project with respect to the regional Transportation Improvement Plan (TIP) and the appropriate level of analysis for conformity with the State Implementation Plan (SIP) for the Attainment and Maintenance of National Ambient Air Quality Standards.

2. for buildings and stationary sources of air pollutants, discuss whether the project will meet applicable emission standards and regulations contained in the State Air Pollution Control Code;
 3. if appropriate, discuss precautions taken to prevent odor problems;
 4. if applicable, discuss precautions taken to prevent the airborne transmission of pathogenic organisms; and
 5. if applicable, discuss precautions taken to address the presence of naturally occurring radon gas.
- * D. Aquatic and Terrestrial Wildlife:
- * 1. discuss any loss (or gain) of habitat and its anticipated effect;
 - * 2. discuss the gain/loss of food chain on aquatic and terrestrial wildlife;
 - * 3. discuss the effects of noise, dust, lighting, turbidity, and siltation upon aquatic and terrestrial wildlife from the start of construction through project operation; and
 - * 4. discuss any impacts on State and federal threatened and endangered plants or animal species and critical habitat.
- * E. Social and Economic:
1. discuss the socio-economic effects on the community due to any other development projects attributable to, but not part of, the proposed action. Will adequate public services be available to serve this development such as schools, and parks;
 - * 2. discuss how the project could affect historic, archaeological, or cultural resources on or eligible for the State Register of Historic Places; and
 - * 3. discuss how environmental justice was considered during the environmental decision making process. If an environmental justice analysis was done, provide information regarding status and/or findings of the analysis.

- F. Solid Waste - discuss methods for solid waste handling both during construction and subsequent operation.
- G. Aesthetics - discuss how the natural or present character of the area will be changed as a result of the proposed action.
- * H. Sustainability (protecting the resources and systems that support us today so that they will be available to future generations) - discuss actions taken during the environmental decision making process (siting, water efficiency, energy efficiency, material/resource use) to insure that the project is a sustainable development that will avoid or minimize negative impacts, strengthen positive ones, take advantage of environmental opportunities, and protect resources.

IV. METHODS OF PROMOTING APPROPRIATE ENVIRONMENTAL DESIGN AND METHODS OF MITIGATING ADVERSE ENVIRONMENTAL IMPACTS

* Discuss avoidance, remedial, protective, sustainable and mitigative measures to be taken as part of the proposed project in response to adverse environmental impacts. Mitigating measures refer to those methods used to ensure that the project is brought into compliance with all governing regulations including, but not limited to, air, water quality, noise control, solid waste, radiation, and land-use regulations. The discussion of avoidance, remedial, protective, sustainable and mitigative measures may include, but not be limited to, the following considerations:

- A. Site location;
- B. Air quality through control apparatus and/or controlled combustion process;
- C. Water quality through treatment of wastewater and/or eutrophication control;
- * D. Erosion and sedimentation control measures;
- * E. Storm water runoff control measures from paved areas;
- * F. Closure of abandoned wells if any exist on site;
- * G. Measures to conserve water;
- * H. Dust control measures;

- * I. Noise control measures;
- * J. Energy conservation measures;
- K. Traffic control measures;
- L. Recycling potential;
- * M. Establishment of buffer zones, selective clearing, and/or landscaping;
- * N. Protective measures for aquatic and terrestrial plants and animals;
- O. Architectural techniques to blend structures with the surrounding area;
- P. Monitoring programs for emissions and discharges;
- Q. Contingency plans and emergency procedures;
- R. Employee education and on-going inspection program.

V. AVOIDANCE OF ADVERSE ENVIRONMENTAL IMPACTS

* Describe in detail those impacts which cannot be reduced to acceptable levels, their implications, and the reasons why the action is being proposed notwithstanding their effect.

VI. ALTERNATIVES TO THE PROPOSED PROJECT

The analysis of alternatives should be sufficiently detailed and rigorous to permit independent and comparative evaluation of the benefits, costs, and environmental risks of the proposed project and each reasonable alternative.

- A. Include the alternative of taking no action. Also evaluate alternative sites, designs, and operations.
- B. Evaluate alternatives capable of substantially reducing or eliminating any adverse impacts, even at the expense of reducing project objectives.
- C. For each alternative discussed, include reasons why each was not as acceptable as the proposed action.