EXECUTIVE ORDER NO. 136

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 ("COVID-19"), I issued Executive Order No. 103 on March 9, 2020, the facts and circumstances of which are adopted by reference herein, which declared both a Public Health Emergency and State of Emergency; and

WHEREAS, on April 7, 2020, I issued Executive Order No. 119 (2020), the facts and circumstances of which are adopted by reference herein, which declared that the Public Health Emergency declared in Executive Order No. 103 (2020) continues to exist; and

WHEREAS, in accordance with N.J.S.A. App. A:9-34 and -51, I reserve the right to utilize and employ all available resources of State government to protect against the emergency created by COVID-19; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, I issued a series of Executive Orders pursuant to my authority under the New Jersey Civilian Defense and Disaster Control Act and the Emergency Health Powers Act, to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104-133 and No. 135 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, among these actions, and in recognition that the Centers for Disease Control and Prevention ("CDC") has advised that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread of the disease and that COVID-19 spreads most frequently through person-to-person contact when individuals are within six feet or less of one another, I issued Executive Order No. 107 (2020) to order steps to mitigate community spread of COVID-19; and

WHEREAS, Executive Order No. 107 (2020) mandated that all businesses and non-profits in the State accommodate their workforce, wherever practicable, for telework or work-from-home arrangements, and reduce staff on site to the minimal number necessary to continue essential operations because restricting the physical presence of individuals in office environments and work sites is critical to preventing future spread of COVID-19; and

WHEREAS, as of March 19, 2020, I also instructed all Executive Branch departments and agencies to utilize work-from-home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on April 8, 2020, I issued Executive Order No. 122 (2020), which, among other things, ordered non-essential construction projects to cease; and

WHEREAS, restricting the physical presence of individuals in office environments and work sites is critical to preventing future community spread of COVID-19; and

WHEREAS, all State offices and Executive Branch departments and agencies have been directed to prioritize addressing immediate public needs, including protecting public health, safety and the environment, while still trying as much as is practicable to maintain the basic functions of State government, and its many duties, missions, and initiatives; and

WHEREAS, notwithstanding the extraordinary circumstances of the COVID-19 pandemic, certain Executive Branch departments and agencies remain subject to statutory provisions that require agencies to review and act upon certain applications or requests for permits or other authorizations before a specified deadline lest the matter under review be deemed approved without conditions; and

WHEREAS, the Department of Environmental Protection ("DEP") is charged with ensuring the protection and preservation of the environment and natural resources that could be adversely impacted

by certain development and construction projects, and pursuant to N.J.S.A. 13:1D-32, must act on an application for a construction permit within 90 days or the application is deemed approved without conditions deemed necessary by DEP to ensure protection of natural resources; and

WHEREAS, under Executive Order No. 122 (2020), construction projects that are essential have been permitted to proceed during this ongoing Public Health Emergency; and

WHEREAS, pursuant to N.J.S.A. 13:1D-29, a "construction permit" includes approvals that may be issued by DEP pending environmental review pursuant to the Waterfront Development Act, R.S. 12:5-3, the Wetlands Act of 1970, N.J.S.A. 13:9A-1, the Coastal Area Facility Review Act, N.J.S.A. 13:19-1, and the Flood Hazard Area Control Act, N.J.S.A. 58:16A-50, as well as the regulations promulgated pursuant to these statutes, which help to ensure the protection of valuable natural resources; and

WHEREAS, DEP is charged with ensuring the protection and preservation of coastal areas that could be impacted by development under the Coastal Area Facility Review Act, and pursuant to N.J.S.A. 13:19-8, must issue a notification to a permit applicant in writing regarding the completeness of its application within 20 days of receipt and present the application for public comment within 15 days and no more than 60 days after the application is declared complete; and

WHEREAS, DEP is charged with oversight of solid waste utilities to ensure the appropriate handling of solid waste throughout New Jersey, and pursuant to N.J.S.A. 48:3-7, must act on solid waste utility applications for certain economic transactions within either 30 or 60 days or the application is deemed approved without conditions by DEP; and

WHEREAS, DEP is charged with the control of stream encroachments, the delegation of certain administrative and enforcement functions to county governing bodies, and the integration of flood control activities of the municipal, county, State, and Federal governments, and pursuant to N.J.S.A. 58:16A-67, must act on an application from a municipality or designated agency for proposed stream cleaning, clearing, or desnagging within either 15 or 60 days of receipt or the application is deemed approved without conditions; and

WHEREAS, automatic approval of applications in the absence of a thorough environmental review may result in permits that contravene applicable regulations and may be otherwise detrimental to public health, safety or the environment; and

WHEREAS, DEP is charged with the oversight of public and private sector recycling activities to decrease the flow of solid waste to sanitary landfill facilities, aid in the conservation and recovery of valuable resources, conserve energy in the manufacturing process, and increase the supply of reusable raw materials for the State's industries, and pursuant to N.J.S.A. 13:1E-99.16.e, the governing body of each municipality must on or before July 1 of each year submit a recycling tonnage report to DEP; and

WHEREAS, DEP is charged with oversight of electronic waste management, and pursuant to N.J.S.A. 13:1E-99.105c, every authorized recycler, each manufacturer or group plan administrator on behalf of a manufacturer, the operator of every collection location identified in each manufacturer's plan, and any local government unit that collects covered electronic devices must submit to DEP a semiannual report for the period ending July 1 by August 1 of each year; and

WHEREAS, the preparation of recycling and electronic waste reporting requires significant effort by local government units, recyclers and manufacturers and collection of information from other

entities, all of whom may be impacted by COVID-19, thus impeding their ability to comply with statutory reporting deadlines; and

WHEREAS, under N.J.S.A. 13:1E-127.1 ("Dirty Dirt law"), which I signed on January 21, 2020, DEP is charged with ensuring that soil and fill recycling services are properly administered throughout New Jersey; and

WHEREAS, the Dirty Dirt law required that any business wishing to engage in soil and fill recycling services submit a registration form to DEP no later than April 20, 2020, and DEP must issue such registration 90 days from submission of the registration form; and

WHEREAS, the Dirty Dirt law further provides that no business without a valid registration may engage in soil and fill recycling services after July 20, 2020 and a registrant must submit a valid and administratively complete application for a soil and fill recycling license to the Attorney General no later than October 20, 2020, which may only be extended for an additional 90 days upon a showing of good cause; and

WHEREAS, under usual circumstances, the statutory timeframes are sufficient to enable regulated entities to submit, and DEP to evaluate and act upon, the required reporting information and subject applications; and

WHEREAS, a public health emergency such as the COVID-19 pandemic, and especially my direction to strictly observe social distancing practices, including avoiding all non-essential travel, working remotely, and prioritizing addressing immediate public needs, including protecting public health, safety and the environment, is an impediment to compliance with the statutory timeframes; and

WHEREAS, members of the public may similarly be limited in their ability to provide necessary information and comment related to applications or requests for permits or authorizations within statutory or regulatory timeframes and may require additional time

due to the interruptions related to the Public Health Emergency and the social distancing and mitigation restrictions imposed; and

WHEREAS, the strict enforcement of these timeframes during the ongoing Public Health Emergency and State of Emergency could prevent DEP from conducting a full and complete environmental review, which would be detrimental to the public welfare; and

WHEREAS, pursuant to N.J.S.A. App. A:9-47, the Governor is authorized to, among other things, suspend any regulatory provision of law when its enforcement is detrimental to the public welfare during an emergency; and

WHEREAS, the Constitution and statutes of the State of New Jersey, particularly the provisions of N.J.S.A. 26:13-1 et seq., N.J.S.A. App. A: 9-33 et seq., N.J.S.A. 38A:3-6.1, and N.J.S.A. 38A:2-4 and all amendments and supplements thereto, confer upon the Governor of the State of New Jersey certain emergency powers, which I have invoked;

NOW, THEREFORE, I, PHILIP D. MURPHY, 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 timeframes governing public notice, review, or final action on applications for, or renewals of permits, registrations, plans, petitions, licenses, rates, and other approvals under the following statutes administered by DEP are tolled, beginning on March 9, 2020, by each day during the Public Health Emergency declared by Executive Order No. 103 (2020), and no request submitted pursuant to any of these statutes shall be deemed complete or approved for failure to act within the prescribed timeframe: N.J.S.A. 13:1D-32, N.J.S.A. 13:19-8, N.J.S.A. 48:3-7, and N.J.S.A. 58:16A-67.

2. The timeframe for businesses to submit a registration form to DEP to engage in soil and fill recycling services pursuant to N.J.S.A. 13:1E-127.1, DEP's time to review and issue such

registration, the deadline after which a business may not engage in soil and fill recycling services without a valid registration, and the timeframe for a registrant to submit an administratively complete license application to the Attorney General shall each be extended by the number of days of the Public Health Emergency declared in Executive Order No. 103 (2020) plus an additional 60 days.

3. The deadline for the governing body of each municipality to submit its yearly recycling tonnage report to DEP by July 1, 2020, under N.J.S.A. 13:1E-99.16.e, is extended by 60 days.

4. The deadline for recyclers, manufacturers, collection locations and local government units who collect electronic devices to submit their semiannual report to DEP by August 1, 2020, as required by N.J.S.A. 13:1E-99.105c, is extended by 60 days.

5. Within five days of the effective date of this Order, the Commissioner of DEP shall issue an Administrative Order that extends the regulatory timeframes to accept public comment on applications for, or renewals of permits, registrations, plans or other approvals where necessary to ensure adequate public participation.

6. Notwithstanding the provisions of this Order, DEP is authorized to establish earlier timeframes for review and decisions on specific permit applications, with appropriate public notice, if DEP determines that an earlier decision is in the public interest or after consideration of the need to maintain appropriate sequencing with federal timeframes.

7. DEP shall continue to review all applications within applicable timeframes to the maximum extent practicable and as necessary to satisfy its obligations of State implementation of a federal program pursuant to Federal law.

8. DEP shall expedite to the extent practicable and in accordance with the CDC guidelines the review of any applications it deems necessary for the protection of public health, safety, and

environment, or that are otherwise related to the Federal or State response to the COVID-19 pandemic.

9. To the degree that they are inconsistent with this Order, the provisions of N.J.S.A. 13:1D-32, N.J.S.A. 13:1E-99.16.e, N.J.S.A. 13:1E-99.105c, N.J.S.A. 13:1E-127.1, N.J.S.A. 13:19-8, N.J.S.A. 48:3-7, and N.J.S.A. 58:16A-67 are suspended for the duration of this Public Health Emergency. Any provisions of these statutes that are not inconsistent with this Order remain in full force and effect.

10. This Order shall take effect immediately and shall remain in effect until revoked or modified by the Governor.

GIVEN, under my hand and seal this 2nd day of May, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fourth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor