EXECUTIVE ORDER NO. 153

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, through Executive Order Nos. 119, 138, and 151, issued on April 7, 2020, May 6, 2020, and June 4, 2020 respectively, the facts and circumstances of which are adopted by reference herein, I declared that the COVID-19 Public Health Emergency continued to exist and declared that all Executive Orders and Administrative Orders adopted in whole or in part in response to the COVID-19 Public Health Emergency remained in full force and effect; 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, Nos. 135-138, and Nos. 140-152 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, to further limit community spread from person-to-person contact through use of social mitigation measures, Executive Order No. 107 (2020) required, with limited exceptions, New Jersey residents to remain in their place of residence and closed all recreational and entertainment businesses; and

WHEREAS, given the decrease in the rate of reported new cases of COVID-19 in New Jersey, including a reduction in the total number of individuals being admitted to hospitals for COVID-19, the State can take steps to lift certain restrictions that were designed to limit person-to-person contact; and

WHEREAS, even as the rate of reported new cases of COVID-19 decreases, the ongoing risks presented by COVID-19 mean that many of the State's current measures must remain in place, both to reduce additional new infections and to save lives; and

WHEREAS, after consultation with officials from the Department of Health ("DOH"), I announced a multi-stage New Jersey's Road Back Plan (the "Plan") for the methodical and strategic reopening of businesses and activities based on scientific data and metrics concerning the level of disease transmission risk and essential classification; and

WHEREAS, the State is implementing its reopening process and has begun to relax restrictions on certain businesses, including the authorization of curbside pickup at retail establishments, the resumption of non-essential construction, and the allowance of a number of lower-risk outdoor activities; and

WHEREAS, consistent with this Plan, I have issued a number of Executive Orders, including Executive Order Nos. 133, 142, 143, 146 and 147 (2020), which lifted closures and/or prohibitions of parks, beaches, lakefronts, and several outdoor recreational

facilities and activities, with social distancing, cleaning, sanitizing, and hygiene practices in place, given repeated observations from public health experts, including but not limited to the Centers for Disease Control and Prevention ("CDC"), that outdoor environments present reduced risks of COVID-19 transmission as compared to indoor environments; and

WHEREAS, consistent with this Plan, I issued Executive Orders No. 148 and 152 (2020), which allowed additional numbers of individuals to gather outdoors, consistent with the same repeated observations from public health experts, Executive Order No. 149 (2020), which authorized the gradual restart of ordinary child care services, certain youth sporting activities, and summer camps, with social distancing requirements, and Executive Order No. 150 (2020), which permitted restaurants, bars, and other food or beverage establishments to provide in-person dining outdoors, again with social distancing requirements; and

WHEREAS, as more outdoor activities can happen safely, and as additional businesses can begin to open to the public under the Plan, especially outdoors, it is appropriate to lift the Order requiring New Jersey residents to remain home or at their place of residence; and

WHEREAS, consistent with this Plan, most outdoor activities, including those that take place in outdoor spaces owned or operated by recreation businesses, can begin to open to the public consistent with the State's framework on outdoor recreation and the relative risks of COVID-19 transmission provided that certain social distancing measures are followed, but recreation businesses still cannot allow the public into the indoor spaces for activity because such indoor environments continue to pose a higher risk of COVID-19 transmission at this time; and

WHEREAS, a limited number of outdoor spaces owned or operated by recreation businesses, including amusement parks and arcades, cannot be open to the public at this time because they include many high touch areas that make social distancing guidelines and capacity limits difficult to implement, maintain, monitor, and enforce; and

WHEREAS, indoor recreation also entails a higher risk than indoor retail settings, as indoor recreation typically involves individuals congregating together in one location for a prolonged period of time, while in indoor retail settings, individuals neither congregate in large groups nor remain in close proximity for extended periods and so the risk of COVID-19 spread is reduced; and

WHEREAS, the CDC has issued guidance regarding social distancing, cleaning, sanitizing, and hygiene practices necessary for the safe operation of public pools and hot tubs; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3 swimming pool facilities include conventional pools, hot tubs, spas, wading pools, special purpose pools, and aquatic recreation attractions that include, but are not limited to, "pools operated by or serving campgrounds, clubs, churches, cities, common interest communities, counties, day care centers, group home facilities for six or more clients, health spas, institutions, parks, private lake, river, or bay associations, or private community lake, river, or bay associations, State, county, and municipal agencies, retirement communities, schools, specially exempt facilities, subdivisions, or cooperative living type projects of three or more living units, such as apartments, boarding homes, condominiums, hotels, mobile home parks, motels, recreational vehicle parks, townhouses, trailer parks, and youth camps"; and

WHEREAS, consistent with this Plan, most outdoor swimming pools can begin to open provided such facilities implement measures that ensure critical health standards are met, which will be issued by DOH prior to opening, but consistent with the fact that indoor environments continue to pose a higher risk of COVID-19 transmission, indoor pools cannot open at this time; and

WHEREAS, pursuant to N.J.A.C. 8:26-1.3, aquatic recreation facilities include interactive play attractions, water parks, spray parks, and water amusement rides regulated by the Department of Community Affairs at N.J.A.C. 5:14A-12; and

WHEREAS, aquatic recreation facilities cannot be open to the public at this time due to the significant high touch areas at these facilities where many different individuals are coming into contact with those areas in rapid succession; 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. Effective at 6:00 a.m. on Monday, June 22, 2020, outdoor swimming pools are permitted to open, provided that the pool facility complies with all standards issued by the DOH pursuant to Paragraph 2 of this Order.

2. The Commissioner of the DOH is directed, pursuant to her authority under the Emergency Health Powers Act, N.J.S.A. 26:13-1 et seq., to issue health and safety standards for use by pool facilities in order to be open consistent with this Order. Any pool facility that opens must satisfy all standards issued by DOH pursuant to this Paragraph.

3. Pool facilities may open for the purpose of lifeguard training and swimming lessons prior to Monday, June 22, 2020, consistent with paragraph 10 of Executive Order No. 107 (2020).

4. All recreational and entertainment businesses that were closed to the public by paragraph 9 of Executive Order No. 107 (2020) are permitted to reopen their outdoor spaces to the public, unless otherwise prohibited by this Order, provided that such businesses adopt policies that include, at minimum, the following requirements:

a. The public is permitted only in such outdoor spaces, except that members of the public may enter the indoor premises of the recreation business when entering or exiting the establishment in order to access the outdoor area, or to use the restroom;

b. Limit total capacity to a number that ensures that all individuals can remain six feet apart;

c. Open-air rain tarps, tents, and other outdoor structures shall be allowed solely for the purpose of protecting against foul weather or for shade;

d. Require that reservations, cancellations and pre-payments be made via electronic or telephone reservation systems to limit physical interactions. Such policies shall, wherever possible, consider

populations that do not have access to internet service or credit cards;

e. Install a physical barrier, such as a shield guard, between visitors and employees wherever feasible or otherwise ensure six feet of distance between those individuals, except at the moment of payment;

f. Limit the use of equipment rented or otherwise provided by the business to one person at a time, excluding immediate family members, caretakers, household members, or romantic partners, and sanitize such equipment before and after use;

g. Demarcate and post signs that denote six feet of spacing in all commonly used and other applicable areas or where people may form a line;

h. Require infection control practices, such as regular hand washing, coughing and sneezing etiquette, and proper tissue usage and disposal;

i. Provide employees break time for repeated handwashing throughout the workday;

j. Provide sanitization materials, such as hand sanitizer and sanitizing wipes, to staff and customers;

k. Limit occupancy in restrooms that remain open to avoid over-crowding and maintain social distancing through signage and, where practicable, the utilization of attendants to monitor capacity;

l. Require frequent sanitization of high-touch areas including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect all high-touch areas in accordance with DOH and CDC guidelines, particularly in spaces that are accessible to staff, customers, or members, or other individuals, including, but not limited to, restroom and locker facilities, counter tops, hand rails, door knobs, other common surfaces, safety equipment, and other frequently touched surfaces including employee used equipment, and ensure cleaning procedures following a known or potential exposure in compliance with CDC recommendations;

ii. Clean and disinfect equipment that is rented in accordance with CDC and DOH guidelines; and

iii. Train and equip employees to perform the above protocols effectively and in a manner that promotes the safety of the visitors and staff;

m. Place additional restrictions on areas of the business, as necessary, to limit person-to-person interactions and facilitate appropriate social distancing;

n. Immediately separate and send home workers who appear to have symptoms consistent with COVID-19 illness upon arrival at work or who become sick during the day;

o. Promptly notify workers of any known exposure to COVID-19 at the worksite, consistent with the confidentiality requirements of the Americans with Disabilities Act and any other applicable laws;

p. Clean and disinfect the worksite in accordance with CDC guidelines when a worker at the site has been diagnosed with COVID-19 illness; and

q. Continue to follow guidelines and directives issued by the New Jersey Department of Health, the CDC and the Occupational Health and Safety Administration, as applicable, for maintaining a clean, safe and healthy work environment.

5. Any type of event at an outdoor recreational and entertainment business that involves individuals who are there at a specific time and for a common reason, such as a movie, a concert, a sporting event, or a trip on a chartered vessel, shall remain subject to the restrictions on outdoor gatherings in Executive Order No. 152 (2020).

6. Any recreational and entertainment businesses that were already permitted to reopen their outdoor spaces to the public, including outdoor archery ranges, batting cages, golf courses, golf driving ranges, shooting ranges, tennis clubs, and chartered vessels, may continue to keep their outdoor spaces open to the public, provided that they comply with all applicable terms of this Order.

7. Public and private social clubs are permitted to reopen their outdoor spaces, provided that they comply with all applicable terms of this Order.

8. The following shall remain closed to the public at pool facilities and all recreational businesses:

a. Aquatic recreation facilities;

b. Indoor recreational areas;

c. Playgrounds; and

d. Water fountains (those considered recreational, not those for drinking).

9. All restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, all bars, all private and public social clubs, and all other holders of a liquor license with retail consumption privileges located at pool facilities and recreational businesses, including concessions, snack bars, and food trucks, shall comply with the requirements set forth in Executive Order No. 150 (2020).

10. Notwithstanding paragraph 4 of this Order, amusement parks and arcades that are recreational businesses or located at pool facilities shall remain closed pursuant to Executive Order No. 107 (2020), even if they are outdoors. Nothing in this Order prevents a business from operating an amusement game outdoors, such as a game on a boardwalk, so long as the game does not take place in an amusement park and an employee is present and adheres to all of the requirements in paragraph 1 of this Order, including sanitizing all equipment before and after each use.

11. Paragraph 2 of Executive Order No. 107 (2020), which requires New Jersey residents to remain home or at their place of residence with limited exceptions, is hereby rescinded. Paragraph 5 of Executive Order No. 142 (2020) and paragraph 5 of Executive Order No. 146 (2020) are also rescinded.

12. Total capacity at State Parks and Forests, as well as county and municipal parks, shall be limited to a number that ensures that all individuals can remain six feet apart.

13. Nothing in this Order shall replace, limit, or otherwise modify, existing sanitation and safety regulatory requirements for recreational bathing facilities to preserve public health set

forth in the New Jersey State Sanitary Code regulations, N.J.A.C. 8:26, adopted pursuant to N.J.S.A. 26:1A-7 and N.J.S.A. 26:4A-7.

14. The provisions in paragraph 9 of Executive Order No. 107 (2020), paragraphs 8 and 9 of Executive Order No. 133 (2020), paragraphs 2-3 of Executive Order No. 143 (2020), paragraph 1 of Executive Order No. 146 (2020), paragraphs 2, 5, 6, 8, and 10 of Executive Order No. 147 (2020), and paragraphs 2 and 4 of Executive Order No. 148 (2020) are hereby superseded to the extent inconsistent with this Order. To the extent provisions of these Orders are not inconsistent with this Order, they remain in full force and effect.

15. The State Director of Emergency Management, who is the Superintendent of State Police, shall have the discretion to make additions, amendments, clarifications, exceptions, and exclusions to the terms of this Order.

16. It shall be the duty of every person or entity in this State or doing business in this State and of the members of the governing body and every official, employee, or agent of every political subdivision in this State and of each member of all other governmental bodies, agencies, and authorities in this State of any nature whatsoever, to cooperate fully in all matters concerning this Order, and to cooperate fully with Administrative Orders issued pursuant to this Executive Order.

17. No municipality, county, or any other agency or political subdivision of this State shall enact or enforce any order, rule, regulation, ordinance, or resolution which will or might in any way conflict with any of the provisions of this Order, or which will or might in any way interfere with or impede its achievement.

18. Penalties for violations of this Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

19. This Order shall take effect immediately, and shall remain in effect until revoked or modified by the Governor, who shall consult with the Commissioner of DOH as appropriate.

GIVEN, under my hand and seal this 9th day of June, 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