EXECUTIVE ORDER NO. 183

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, 151, 162, 171, and 180, issued on April 7, 2020, May 6, 2020, June 4, 2020, July 2, 2020, August 1, 2020, and August 27, 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, Nos. 140-166, Nos. 168-173, No. 175, and Nos. 177-181 (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) closed all recreational and entertainment businesses, and limited all restaurants, dining establishments, and food courts, with or without a liquor license, all bars, and all other holders of a liquor license with retail consumption privileges, to offering food delivery and/or take-out services only; 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 has taken and 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, in accordance with this Plan, on June 3, 2020, I signed Executive Order No. 150, which authorized food or beverage establishments to offer in-person service at outdoor areas, provided that the food or beverage establishment complied with certain social distancing protocols; and

WHEREAS, Executive Order No. 150 (2020) prohibited smoking in any outdoor areas designated for the consumption of food and/or beverages, but stated that the requirement that food or beverage establishments impose this prohibition would automatically sunset when in-person service was permitted in indoor areas; and

WHEREAS, on June 9, 2020, I signed Executive Order No. 153, which allowed all recreational and entertainment businesses to reopen their outdoor spaces to the public as long as they adopted policies containing a specified list of health and safety requirements; and

WHEREAS, I signed Executive Order No. 157 on June 26, 2020, which authorized most recreational and entertainment businesses to reopen their entire premises, whether indoor or outdoor, to the public, contingent on those businesses adopting certain health and safety protocols; and

WHEREAS, while Executive Order No. 157 (2020) announced the limited resumption of indoor dining, this step was put on hold in Executive Order No. 158 (2020), in light of COVID-19 spikes in states around the nation, which were attributed by state officials and other experts, at least in part, to activities in indoor food and beverage establishments; and

WHEREAS, Executive Order No. 157 (2020) prohibited certain recreational and entertainment businesses, including health clubs, performance-based entertainment centers such as movie theaters, performing arts centers, or other concert venues, and indoor amusement or water parks, from opening their indoor spaces to the public because they were deemed to pose an unacceptably high risk of transmission of COVID-19 at that time; and

WHEREAS, on August 27, 2020, I signed Executive Order No. 181 (2020), which opened health clubs and indoor amusement and water parks with strict capacity limits and mask requirements; and

WHEREAS, indoor performance-based entertainment centers have posed unique challenges because they involve individuals in proximity for unusually significant periods of time, and, in the case of centers like movie theaters that offer concessions, necessitate individuals removing their masks for limited periods; and

WHEREAS, indoor dining has also presented challenges given that it necessitates individuals removing their masks, and given that it has been tied to spikes in other states; and

WHEREAS, because of the enormous progress that New Jersey has made in combatting the spread of COVID-19, including the lack of any sustained uptick in transmission for the last several months, it is now appropriate to allow indoor dining and indoor entertainment centers to operate, with strict capacity limits and health and safety protocols; and

WHEREAS, in line with the State's overall rules, which require individuals to wear a face covering any time they are in a range of indoor locations, except when doing so would endanger someone's health or would physically block an activity from taking place, individuals will still be required to wear a mask in indoor dining locations or

performance-based entertainment centers except when consuming their food or drinks; and

WHEREAS, in light of this continued progress, and of the importance of activities that receive heightened First Amendment protection, including religious worship and political activities, it is appropriate to adjust the limit on these types of indoor gatherings upward, while maintaining the 25 percent capacity limit that ensures that individuals are able to appropriately social distance; 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 Friday, September 4, 2020, restaurants, cafeterias, dining establishments, and food courts, with or without a liquor license, bars, and all other holders of a liquor license with retail consumption privileges, collectively referred to as "food or beverage establishments," are permitted to offer in-person service at indoor areas, provided that the establishment complies with the following requirements:

a. Limit the number of patrons in indoor areas to 25 percent of the food or beverage establishment's indoor capacity, excluding the food or beverage establishment's employees;

b. Ensure that tables where individuals or groups are seated are six feet apart in all directions from any other table or seat and that individual seats in any shared area that is not reserved for individual groups, such as an indoor bar area, are also six feet apart in all directions from any other table or seat;

c. Require indoor patrons to wear face coverings while inside the indoor premises of the food or beverage establishment. When seated at their table or their individual seat, indoor patrons shall wear face coverings until their food or drinks arrive, and after individuals have finished consuming their food or drinks, they shall put their face coverings back on. The face covering requirement does not apply if the patron has a medical reason for not wearing a face covering or is a child under two years of age;

d. Food or beverage establishments shall only allow patrons to place orders for indoor table service when they are seated at a table or bar, and only wait staff or other employees may bring food or beverages to seated patrons;

e. Patrons may only consume food or beverages while seated; and

f. Abide by all other health and safety standards issued by the Commissioner of DOH, including infection control practices and other sanitization protocols, consistent with her authority under the Emergency Health Powers Act.

2. Effective at 6:00 a.m. on September 4, 2020, entertainment centers where performances are viewed or given, including movie theaters, performing arts centers, and other concert venues, may open their indoor spaces to the public, subject to the following requirements:

a. Limit the number of patrons in any indoor room where a performance is viewed or given to 25 percent of the stated maximum capacity, if applicable, at one time, excluding the entertainment business's employees, but regardless of the capacity of the room, such limit shall never be larger than 150 persons;

b. Individuals who purchase or reserve tickets together may be seated together, but must be six feet away from all other groups or individuals in all directions;

c. 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;

d. 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;

e. 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;

f. 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;

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

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

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

j. 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;

k. 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 Centers for Disease Control and Prevention ("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;

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

m. 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;

n. 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;

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

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

q. Ensure that staff practice regular hand hygiene when interacting with the public. Businesses may adopt policies that require staff to wear gloves, in addition to regular hand hygiene. Where a business requires its staff to wear gloves while at the worksite, the business must provide such gloves to staff;

r. Require workers and customers to wear cloth face coverings while in the indoor portion of the premises, except where doing so would inhibit that individual's health or where the individual is under two years of age. Businesses must provide, at their expense, such face coverings for their employees. If a customer refuses to wear a cloth face covering for non-medical reasons and if such covering cannot be provided to the individual by the business at the point of entry, then the business must decline the individual entry into the indoor premises. Nothing in the stated policy should prevent workers or customers from wearing a surgical-grade mask or other more protective face covering if the individual is already in possession of such equipment, or if the business is otherwise required to provide such worker with more protective equipment due to the nature of the work involved. Where an individual declines to wear a face covering in the indoor premises due to a medical condition that inhibits such usage, neither the essential retail business nor its staff shall require the individual to produce medical documentation verifying the stated condition; and

s. The requirement listed above in Paragraph 2(p) shall not apply where impracticable, such as when individuals are eating or drinking. Individuals who are eating or drinking concessions must wear face coverings before they begin eating or drinking, and then must put their face coverings back on after they are finished eating or drinking.

3. Effective at 6:00 a.m. on Friday, September 4, 2020, Paragraphs 2, 3, 4, and 5 of Executive Order No. 158 (2020) are hereby rescinded. After 6:00 a.m. on Friday, September 4, 2020, any retail, recreational, and entertainment business that is authorized to open its indoor premises to the public may allow the consumption of food, beverages, or smoking in those indoor premises, when otherwise permitted by State law. The State-mandated prohibition of smoking in any outdoor areas designated for the consumption of food and/or beverages shall sunset at 6:00 a.m. on Friday, September 4, 2020, although food or beverage establishments may choose to continue this prohibition if otherwise permitted to do so by State law.

4. Paragraph 1 of Executive Order No. 173 (2020) is hereby rescinded and the number of individuals at indoor gatherings that are not religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 25 persons or smaller than 10 persons. The number of individuals at indoor gatherings that are religious services or celebrations, political activities, wedding ceremonies, funerals, or memorial services shall be limited to 25 percent of the capacity of the room in which it takes place, but regardless of the capacity of the room, such limit shall never be larger than 150 persons or smaller than 10 persons. For purposes of this Paragraph, any private residence or residential unit shall be treated as a single “room.”

5. Paragraph 1(b) of Executive Order No. 152 (2020) is hereby rescinded and all attendees at an indoor gathering must wear face coverings at all times except where doing so would inhibit the individual's health, where the individual is under two years of age, or when wearing a face covering is impracticable, such as when an individual is eating, drinking, or smoking.

6. While the numerical limits on indoor gatherings in Paragraph 1(a) of Executive Order No. 152 (2020) and the face covering requirement in Paragraph 1(b) of Executive Order No. 152 (2020) are hereby superseded, all other requirements for indoor gatherings contained in Paragraph 1 for Executive Order No. 152 (2020) shall remain in effect.

7. Any requirements in any Executive Order, Administrative Order, or agency directive that incorporated by reference the gatherings limits in Executive Order Nos. 107, 142, 148, 152, 156, 161, and/or 173 (2020) are amended to reflect the rules on gatherings stated in this Order.

8. 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.

9. 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.

10. 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.

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

12. 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 1st day of September, Two Thousand and Twenty, and of the Independence of the United States, the Two Hundred and Forty-Fifth.

[seal]

/s/ Philip D. Murphy

Governor

Attest:

/s/ Matthew J. Platkin

Chief Counsel to the Governor