EXECUTIVE ORDER NO. 143

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 May 6, 2020, I issued Executive Order No. 138 (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, Nos. 135-138, and Nos. 140-142 (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, 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, cancelled all gatherings, and closed all recreational and entertainment businesses; and

WHEREAS, Executive Order No. 108 (2020) ordered that 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 Executive Order No. 107 (2020), or which will or might in any way interfere with or impede its achievement, or the achievement of Administrative Orders issued as authorized by Executive Order No. 107 (2020); and

WHEREAS, Executive Order No. 108 (2020) contained an exception allowing municipalities and counties to, among other things, impose additional restrictions at municipal or county parks; and

WHEREAS, the New Jersey Office of Emergency Management ("NJOEM") Administrative Order No. 2020-5, clarified that municipalities may impose additional restrictions at beaches and boardwalks in response to COVID-19 pursuant to Executive Order No. 108 (2020); and

WHEREAS, due to increased public interaction and gatherings at county and State parks throughout the State, I issued Executive Order No. 118 (2020) on April 7, 2020, which closed State Parks and Forests, as well as county parks, to the public in order to further social distancing requirements; and

WHEREAS, Executive Order No. 118 (2020) defined "State Parks and Forests" as all State parks, forests, recreation areas, historic sites, marinas, golf courses, botanical gardens, and other lands, waters, and facilities assigned to the State Park Service in the Division of Parks and Forestry of the Department of Environmental Protection ("DEP"); and

WHEREAS, Executive Order No. 118 (2020) superseded Executive Order No. 108 (2020) to the extent that Executive Order No. 108 (2020) had allowed counties to impose additional restrictions at county parks in response to COVID-19; and

WHEREAS, on April 8, 2020, and April 11, 2020, I issued Executive Order Nos. 122 and 125 (2020), respectively, which imposed additional mitigation requirements on essential businesses and transportation carriers to ensure that they are following CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices; and

WHEREAS, on April 29, 2020, I issued Executive Order No. 133 (2020), superseding Executive Order No. 118 (2020), which reopened State Parks and Forests and provided counties the discretion to reopen their parks; and

WHEREAS, Executive Order No. 133 (2020) imposed certain mitigation requirements to be followed at State Parks and Forests, as well as county and municipal parks, to ensure that visitors follow CDC and other public health guidelines regarding social distancing, cleaning, sanitizing, and hygiene practices while visiting parks; and

WHEREAS, New Jersey is no longer seeing an increase in the number of new cases of COVID-19 that are being reported on a daily basis, and the State is experiencing a decrease in the number of individuals visiting emergency departments and being admitted to hospitals for COVID-19; and

WHEREAS, the CDC has issued guidance for visiting parks and recreational facilities, recognizing that parks and open spaces, which includes beaches and lakeshores, provide people a vital way to keep the mind and body healthy; and

WHEREAS, the CDC guidance regarding the safe access of parks and recreational facilities advises individuals to stay six feet away from other visitors, avoid use of playgrounds, decline participation

in organized sports and recreational activities, and visit parks close to home to limit travel distances; and

WHEREAS, the Jersey Shore, made up of approximately 140 miles of beaches on the ocean, rivers and bays, is a popular outdoor recreation destination for the public beginning on Memorial Day through the summer months; and

WHEREAS, under the common law and statutes of New Jersey, including the Public Trust Doctrine, codified at N.J.S.A. 13:1D-150, the natural resources, including certain lands, waters, air, and living resources, are held in trust by the State for the benefit of the public, who have the right to access and enjoy these resources, including the State's tidal waters and adjacent shorelines, and those of the lakes, rivers, and bays throughout the State; and

WHEREAS, municipalities that have property rights in lands bordering the ocean, tidal water, bays, or rivers utilized as a place of resort for public recreation and for other purposes, have the authority to make and enforce rules and regulations for the management and care of the beaches and any boardwalk, bathing, recreational, or related facilities pursuant to N.J.S.A. 40:61-22.20, subject to the Public Trust Doctrine, N.J.S.A. 13:1D-150, any easement, permit, agreement, or encumbrance held or issued by the State, and any applicable State law or regulation; and

WHEREAS, municipalities may impose reasonable restrictions on public access to beaches to protect public safety and welfare, such as limiting the number of persons allowed on the beach at any one time, provided such restrictions are applied in a non-discriminatory manner; and

WHEREAS, municipalities may not impose restrictions to public access of New Jersey's beaches that overtly or implicitly discriminate against persons based on residency, income-level, or any protected class; and

WHEREAS, New Jersey's abundant rivers, bays, lakes, and adjacent shores likewise provide popular outdoor recreation destinations for the public, including during the summer months; and

WHEREAS, as New Jersey makes continued progress in its fight against COVID-19, it is appropriate to ensure that New Jerseyans can safely enjoy outdoor recreation, including access to beaches, boardwalks, lakes, and lakeshores throughout the State as a way to enhance physical and mental health, while maintaining reasonable restrictions to help limit the spread and prevent future outbreaks of COVID-19 and protect the health, safety, and welfare of New Jersey residents; and

WHEREAS, notwithstanding public access rights and any individual, municipal, or private rights to control one's property, it is imperative that reasonable restrictions to protect public health are implemented consistently throughout the State, including in our coastal and lakeshore communities pursuant to a Statewide policy; and

WHEREAS, as public health experts have observed, even as the State is able to allow outdoor recreation with reasonable restrictions, due to the ongoing risk of community spread of COVID-19, the extensive interactions that would happen from in-store retail operations and within recreational and other businesses continue to present a significant risk, and so the restrictions on in-store operations for non-essential retail businesses, and inside recreational and other businesses cannot be lifted at this time; and

WHEREAS, in light of the above, the traditional Memorial Day openings of New Jersey's shore and lake communities that provide recreation and enjoyment of beaches, boardwalks, lakes, and lakeshores must be balanced with our continued need to implement the social mitigation measures that remain necessary in our ongoing fight against the spread of COVID-19 and to prevent future outbreaks; 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 public and private beaches, boardwalks, lakes, and lakeshores in the State may be open to the public as long as these spaces are used and maintained consistent with the restrictions and recommendations herein.

2. The following shall be closed to the public at all public and private beaches, boardwalks, lakes, and lakeshores:

a. Water Fountains;

b. Picnic Areas;

c. Playgrounds;

d. Pavilions;

e. Indoor recreational areas;

f. Water play areas, such as splash parks;

g. Water play equipment, including but not limited to goggles, snorkels, fins, kick boards, pool noodles and toys; and

h. Other ancillary buildings or facilities, including, but not limited to visitor centers, but excluding bathrooms, showering or changing areas.

3. Notwithstanding the requirements of the common law Public Trust Doctrine, N.J.S.A. 13:1D-150, N.J.S.A. 40:61-22.20, and other applicable laws, municipalities, lake commissions, and private club

associations or entities shall implement the following restrictions at all public and private beaches, boardwalks, lakes, and lakeshores:

a. Impose non-discriminatory capacity restrictions including, but not limited to:

i. Limiting the number of available seasonal and daily beach tags; or

ii. Otherwise limiting beach or lakeshore access;

b. Require that members of the public practice social distancing while present at all public and private beaches, boardwalks, lakes, and lakeshores, including staying six feet apart whenever practicable, excluding immediate family members, caretakers, household members, or romantic partners. Such measures may include, but are not limited to:

i. Controlling density at entrance points and gates and limiting points of ingress or egress to single directional flows of pedestrian traffic provided such restrictions are consistent with requirements and obligations under State and federal law, including but not limited to State Aid Agreements, permits and Green Acres restrictions;

ii. Demarcating six feet of spacing in any area where the public may form a line;

iii. Demarcating six feet of spacing along the beach or lakeshore to demonstrate appropriate spacing for social distancing through the placement of cones, flags, or other markings;

iv. Installing a physical barrier, such as a shield guard, between the public and employees, in any ticket or beach badge sales booths, or otherwise

ensuring six feet of distance between those individuals, except at the moment of payment;

v. Limiting occupancy of ticket or beach badge sales booths to one person at a time;

vi. Installing foot pedals or motion sensors for each shower pedestal and requiring foot coverings during use; and

vii. Relocating bicycle racks or other objects that may impede the flow of pedestrian traffic or facilitate congregating that is contrary to social mitigation measures;

c. Develop and implement lifeguard training and beach operation plans, which can include limiting the number of lifeguards at a given time on any stand or tower while adding lifeguard towers, as necessary, to maintain social distance between lifeguards while providing the same coverage and protection necessary to ensure public safety, after consideration of guidance provided by the United States Lifesaving Association, the New Jersey Department of Health ("DOH"), and county health departments that address COVID-19 considerations;

d. Remove, tape-off, or otherwise block access to all benches and tables to discourage gatherings;

e. Prohibit the tying together or "rafting up" of boats to discourage group gatherings;

f. Develop and implement a continuous public outreach campaign to communicate restrictions, set expectations, and emphasize the importance of social distancing and hygiene. Examples of appropriate public outreach include, but are not limited to,

highly visible signage, social media, town and county websites, radio, mobile device applications, and banner-plane advertising;

g. Prohibit impermissible gatherings of individuals, including special events such as festivals, concerts, fireworks, and movies, consistent with paragraph 5 of Executive Order No. 107 (2020) and paragraph 8 of Executive Order No. 142 (2020);

h. Prohibit all organized or contact activities or sports;

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

j. Require frequent sanitization of any areas opened to the public, including, at minimum, the following cleaning protocols:

i. Routinely clean and disinfect high-touch areas at appropriate intervals in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to staff, the public, or other individuals, including, but not limited to, restroom facilities, lifeguard stands or towers, gates, ticket or sales booths, shower pedestals, counter tops, sinks, door knobs, other common surfaces, and other frequently touched surfaces; and

ii. Train and equip workers to perform the above protocols effectively and in a manner that promotes the safety of public and staff.

4. All employees and visitors are strongly encouraged to wear face coverings when present on the public and private beaches, boardwalks, lakes, and lakeshores in any settings where other social distancing measures are difficult to maintain, except where doing so would inhibit that individual's health or where the individual is under two years of age, and all operators of public and private beaches, boardwalks, lakes, and lakeshores shall post signage indicating that face coverings are strongly encouraged.

5. Except as otherwise provided herein, access to public beaches, lakes, and lakeshores shall be consistent with State law and regulations, and shall not be restricted in any discriminatory manner, including by offering only seasonal beach tags without a daily beach tag option, by restricting municipal or street parking, or in any other manner that expressly or implicitly discriminates based on residency, race, income, ability, or any legally protected status or class of persons.

6. All restaurants, cafeterias, 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 located on the public and private beaches, boardwalks, and lakeshores, including concessions, snack bars, and food trucks, shall remain limited to offering only food delivery and/or take-out services pursuant to Executive Order No. 107 (2020).

7. Amusement parks and arcades, as well as other places of public amusement located on the public and private beaches, boardwalks, and lakeshores, shall remain closed pursuant to Executive Order No. 107 (2020).

8. The restrictions set forth in paragraphs 2 through 7 of this Order shall also apply to all public piers, docks, wharfs, boat ramps, and boat landings throughout the State, including along

waterways managed or controlled by any commission, association, or unit of county or local government.

9. Consistent with Paragraph 3 of Executive Order No. 108 (2020), as clarified by paragraph 3 of NJOEM Administrative Order No. 2020-5, any responsible commission, association, or unit of county or local government may impose additional restrictions not inconsistent with this Order, or may close any public beaches, boardwalks, lakes, and lakeshores within their jurisdiction in response to COVID-19. Private beach club associations or entities may also impose additional restrictions upon private property in response to COVID-19 that are not inconsistent with this Order.

10. Nothing in this Order shall limit, or otherwise modify, existing regulatory requirements 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, including but not limited to:

11. Requirements to post advisories or restrict access to beaches or lakes in accordance with water quality standards and protocols established by DEP or the Department of Health in connection with the New Jersey Cooperative Coastal Monitoring Program or Cyanobacterial Harmful Algal Bloom (HABs) Freshwater Recreational Response Strategy; and

b. Sanitation and safety regulations for recreational bathing facilities to preserve public health.

12. The following shall be allowed at State Parks and Forests, as well as county and municipal parks that remain open pursuant to Executive Order No. 133 (2020):

a. Swimming in designated areas consistent with the restrictions herein; and

b. Picnicking provided that social distancing requirements are observed, except that picnic areas shall remain closed.

13. Restrooms located at any State Park and Forest, as well as county and municipal parks subject to Executive Order No. 133 (2020), shall be opened to the public and subject to frequent sanitization pursuant to, at minimum, the following cleaning protocols:

a. Routinely clean and disinfect high-touch areas at appropriate intervals in accordance with CDC and DOH guidelines, particularly in spaces that are accessible to staff, the public, or other individuals, including, but not limited to, restroom facilities, counter tops, sinks, door knobs, other common surfaces, and other frequently touched surfaces;

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

c. Train and equip workers to perform the above protocols effectively and in a manner that promotes the safety of public and staff.

14. Paragraph 9 of Executive Order No. 107 (2020) is hereby superseded to the extent it closes private beach clubs, but otherwise remains in full force and effect. Paragraphs 2 and 3 of Executive Order No. 133 (2020) are hereby superseded to the extent they prohibit swimming and picnicking and close restrooms at State Parks and Forests, as well as county and municipal parks.

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 Executive 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 Executive Order may be imposed under, among other statutes, N.J.S.A. App. A:9-49 and -50.

19. This Order shall take effect beginning at 6:00 a.m. on Friday, May 22, 2020, except that paragraph 13 shall be effective at 6:00 a.m. on Saturday, May 16, 2020, 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 14th 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