



## State of New Jersey

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

OFFICE OF THE COMMISSIONER

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**PHILIP D. MURPHY**

*Governor*

**SHEILA Y. OLIVER**

*Lt. Governor*

**CATHERINE R. McCABE**

*Commissioner*

### ADMINISTRATIVE ORDER NO. 2020-24

WHEREAS, in light of the dangers posed by Coronavirus disease 2019 (COVID-19), Governor Phil Murphy issued Executive Order No. 103 (EO 103), dated 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, Section 6 of EO 103 authorized agency heads to waive, suspend or modify any existing rule, where the enforcement of the rule would be detrimental to the public welfare during the COVID-19 pandemic, notwithstanding the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., or any law to the contrary; and

WHEREAS, as COVID-19 continued to spread across New Jersey and an increasing number of individuals required medical care or hospitalization, Governor Murphy issued a series of Executive Orders to protect the public health, safety, and welfare against the emergency created by COVID-19, including Executive Order Nos. 104, 107, 122, 131 and 136 (2020), the facts and circumstances of which are all adopted by reference herein; and

WHEREAS, as of March 19, 2020, Governor Murphy also instructed all State departments and agencies, including the Department of Environmental Protection (DEP) to utilize work-from home arrangements for both essential and non-essential employees wherever feasible; and

WHEREAS, on March 21, 2020, Governor Murphy issued Executive Order No. 107 (EO 107), the facts and circumstances of which are adopted by reference herein, recognizing that social mitigation strategies for combatting COVID-19 require every effort to reduce the rate of community spread through person-to-person contact, and ordered greater social distancing throughout New Jersey by limiting the unnecessary travel and person-to-person interactions in accordance with Centers for Disease Control (CDC) and Department of Health (DOH) guidance and requiring all businesses or non-profits, wherever practicable, to accommodate their workforce for telework or work-from-home arrangements and reduce staff on site to the minimal number necessary to ensure that essential operations can continue; 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, on April 8, 2020, Governor Murphy issued Executive Order No. 122 (2020), which, among other things, ordered non-essential construction projects to cease but allowed for the continuation of essential construction projects; and

WHEREAS the circumstances surrounding the ongoing COVID-19 emergency and the Governor's direction to strictly observe the practice of social distancing, including suspending all non-essential retail business and construction, restricting travel and directing most employees to work remotely, with many of those individuals taking on child care and home schooling responsibilities in addition to their normal work responsibilities, may impact the ability of interested parties to provide public comment on pending applications; and

WHEREAS, recognizing these limitations, on May 2, 2020, Governor Murphy issued Executive Order No. 136 (EO 136 ), the facts and circumstances of which are adopted by reference herein, which, in relevant part, tolled statutory timeframes associated with certain DEP permit review and approval processes and directed me to extend the regulatory timeframes to accept public comment on applications for, or renewals of permits, registrations, plans or other approvals as necessary to ensure adequate public participation; and

WHEREAS, EO 136 also recognized the need for the Department to continue to review applications within applicable timeframes to the maximum extent practicable or as otherwise necessary to satisfy its obligations of State implementation of a Federal program; and

WHEREAS, pursuant to EO 136, on May 8, 2020, I executed Administrative Order 2020-06 to extend the regulatory timeframes to accept public comments to ensure opportunities for meaningful public participation during the Public Health Emergency; and

WHEREAS, Paragraph 12 of AO 2020-06 provides that the Department may determine not to extend the regulatory timeframes to accept public comments described therein where necessary for the protection of public health, safety and the environment or where otherwise related to the Federal or State response to the COVID-19 pandemic; and

WHEREAS, on October 24, 2020, Governor Murphy issued Executive Order No. 191 (EO 191), the facts and circumstances of which are adopted by reference herein, which, in relevant part, extended the Public Health Emergency and recognized that the State has experienced recent upticks in the rate of reported new cases and hospitalizations across all of its counties; and

WHEREAS, in light of these recent upticks in reported new cases and hospitalizations, the State may expect a corresponding increase in the number of deaths attributable to COVID-19 and an increased need to dispose of human remains; and

WHEREAS, this may necessitate an increase in the capacity of existing human crematories within the State; and

WHEREAS, under these unique and unfortunate circumstances, the extension of certain of the regulatory timeframes to accept public comment under AO 2020-06 may, when applied to human crematories, be detrimental to the public welfare; and

WHEREAS, it is therefore appropriate to further modify the regulatory timeframes to accept public comment on certain air permits required to increase capacity of existing human crematories during COVID-19 emergency; and

NOW, THEREFORE, I, Catherine R. McCabe, Commissioner of the New Jersey Department of Environmental Protection, pursuant to Section 6 of EO 103, and with the approval of the Governor and in consultation with the State Director of Emergency Management and the Commissioner of the Department of Health, do hereby ORDER and DIRECT the supplementation of AO 2020-06 as follows:

1. Where necessary for the protection of public health, safety and the environment or otherwise related to the Federal or State response to the COVID-19 pandemic, any applicable timeframe to provide public comment on applications for the expansion of existing human crematories under the Air Pollution Control Rules, N.J.A.C. 7:27, shall be no more than fifteen (15) days, unless otherwise required by Federal law. Notwithstanding, where the expansion of a human crematory is proposed in an overburdened community, the Department shall make every effort to engage directly with and address the concerns of members of the overburdened community prior to the time to provide public comment.
2. The modifications set forth here shall not apply to any application where the public comment period is expired as of the date of this Order.

This Order is effective immediately and shall remain in effect until the expiration or revocation of EO 103, unless otherwise revoked or modified by me.

Date: 12/22/20



Catherine R. McCabe  
Commissioner