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Press Release

Waiver Rule Update

On March 8, 2012 the New Jersey Department of Environmental Protection ("NJDEP") finally adopted its waiver rule ("NJDEP Waiver Rule"). ([Click here to see the Waiver Rule](#)). The NJDEP Waiver Rule followed Governor Christie's January 20, 2010 executive mandate to New Jersey's administrative agencies to implement "Common Sense Principles" for state rules and regulations that will "energize and encourage a competitive economy to benefit businesses and ordinary citizens" ([Click here to see Governor Christie's Executive Order](#)). An extensive period of public comment was detailed in the 355-page Rule Adoption ([Click here to see the Waiver Rule Adoption](#)).

The NJDEP Waiver Rule would allow a regulated person or entity to apply for and obtain a waiver of environmental mandates if they could successfully establish that there is a public emergency that has been declared, that there are conflicting rules (between Federal and State agencies) that are adversely impacting a project or preventing activity from proceeding, that the waiver would result in a net environmental benefit, or that there would be an undue hardship imposed by the rule requirement(s). Unfortunately for those looking forward to the August 2, 2012 date when waiver applications were to be accepted for the first time, this week and last week marked significant attacks on the NJDEP Waiver Rule that could bring its downfall. Last week the Senate advanced a resolution (ACR-37) to compel the NJDEP to amend or withdraw the Waiver Rule. The Assembly approved a similar resolution this week, in a large part due to significant opposition from environmental protection and labor organizations. These resolutions are subject to a full vote, but no schedule has been set for such a vote. ([Click here to see applicable State Bills](#)).

According to the New Jersey Office of Legislative Services, the resolutions could be voted on as early as next week. We will keep you apprised of developments on the Waiver Rule.

About Bisgaier Hoff, LLC

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