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### **NEW JERSEY MAINTAINS ENVIRONMENTAL JUSTICE REQUIREMENTS DESPITE FEDERAL PULL BACK**

*By: Heidi Minuskin, Esq. & Jonathan Donath, Esq.*

New Jersey permit holders who thought permit renewal or change would be easier because of the federal rollback of environmental justice rules need to think again. New Jersey Environmental Justice requirements are alive and well. Earlier this month, New Jersey's Environmental Justice Law ("EJL") withstood an appellate challenge which sought to undercut if not outright eliminate the regulations implementing the law, which some stakeholders argued was arbitrary and capricious. The Appellate Division disagreed and upheld the EJL.

New Jersey's EJL was no doubt born of the best intentions, with a stated goal of bringing equity and justice to the realm of environmental regulations. The EJL mandates that whenever a permit is requested, renewed, or changed, the applicant needs to satisfy EJL Requirements which include, among other things, public notice and a public hearing. Some New Jersey stakeholders have been concerned that this additional regulatory layer imposes undue economic burdens on business owners.

Likely prompted by such concerns, this lawsuit, entitled "*In the Matter of the New Jersey Department of Environmental Protection's April 17, 2023, 55 N.J.R. 661(b) 'Environmental Justice Rules,' Adopted Amendments N.J.A.C. 7:1C et seq. in the Matter of The Adoption of N.J.A.C. 7:1C,*" was filed by the New Jersey Chapter of the Institute of Scrap Recycling Industries Inc. and the Engineers Labor Employer Cooperative of Operating Engineers Local 825, who sought to invalidate the regulations which implement the EJL. These stakeholders argued that NJDEP exceeded its statutory authority in promulgating the regulations, which they claim utilize vague and overbroad definitions and impose arbitrary permitting burdens on facilities in the so-called "overburdened communities" the EJL is designed to protect. In an extremely detailed seventy-eight (78) page opinion, the Court struck down the challenge, thus preserving the EJL's requirements.

#### **Florham Park**

220 Park Avenue  
Florham Park, NJ 07932  
973-539-1000

#### **Paramus**

115 West Century Road  
Suite 100  
Paramus, NJ 07652  
201-262-1600

#### **Sparta**

351 Sparta Avenue  
Sparta, NJ 07871  
973-295-3670

#### **New York**

9 East 40th Street  
New York, NY 10016  
646-652-7775

Moving forward, the impact of the Court's decision is that New Jersey businesses must be mindful to continue to abide by the EJJ's implementing regulations in applying for and renewing permit applications. Being familiar with this complicated regulatory scheme, or working with someone who is, can help businesses navigate those waters, and minimize added delays and costs as a result.

For more information or assistance with your permitting process, please contact Heidi Minuskin at [hsm@spsk.com](mailto:hsm@spsk.com) or 973-798-4949 or Jonathan Donath at [jfd@spsk.com](mailto:jfd@spsk.com) or 973-798-4952.

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