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Fiscal Code of 2025 Abrogates RGII, Expedites Permitting Procedures, and Gives the PUC Oversight of PJM Load Forecasts

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On November 12, 2025, Governor Josh Shapiro signed House Bill 416, a Fiscal Code Bill and a segment of the Pennsylvania budget package for Fiscal Year 2025-26. The Fiscal Code has several important implications for industry regulation, including the abrogation of the Regional Greenhouse Gas Initiative regulations, permitting relief through expedited review schedules for certain air and water general permits, and provisions to ensure grid reliability.

The Fiscal Code abrogates the RGII provisions contained in 25 Pa. Code Chapter 145, Subchapter E, known as the CO2 budget trading program. The RGII regulations were promulgated in 2022 but have not yet been implemented in Pennsylvania because of ongoing legal challenges. In November 2023, the Pennsylvania Commonwealth Court ruled that RGII is an unconstitutional, unenforceable tax. Governor Shapiro and many other parties appealed that ruling to the Pennsylvania Supreme Court, where the case was fully briefed and argued last May. Although the Court's course of action remains uncertain now that RGII has been abrogated, the Court could dismiss the appeal as moot and decline to issue an opinion.

The Fiscal Code also expedites permitting for certain air and water-related general permits. The Pennsylvania Department of Environmental Protection now must respond within 20 days of submission to an application under the Air Pollution Control Act for coverage under

a general plan approval or general permit. If the applicant addresses the technical deficiencies within 25 days, DEP must issue a final determination on the application within 30 days thereafter. However, if DEP misses this deadline, the application is deemed to have been approved. DEP may seek a one-time, 5-day extension to respond if the applicant agrees.

The Fiscal Code contains similar provisions for NPDES general permits.¹ DEP must respond to an application to renew an NPDES general permit issued under 25 Pa. Code § 92a.54 within 40 days of submission, and if the applicant addresses each identified technical deficiency within 50 days, DEP must issue a final determination on the renewal application within 60 days thereafter. If DEP misses this deadline, the application is deemed to have been approved.

To improve transparency in the permitting process among DEP and other state agencies, the new law requires all state agencies to compile and maintain, by February 10, 2026, publicly available lists of all types of permits issued by that agency. State agencies must notify applicants within five days of receiving a permit application and direct them to the new tracking system to follow the status of their applications. This system must include the processing time for each permit application, the date of receipt of each application, the estimated time remaining to complete the application process, and the contact information

¹ This section of the Fiscal Code applies to NPDES general permits issued for specific categories of point sources, including discharges of stormwater associated with industrial activities, discharges from small-flow treatment facilities, discharges from petroleum product contaminated groundwater remediation systems, and wet weather overflow discharges from combined sewer systems.

for the relevant agency reviewer.

Finally, the new law requires the Pennsylvania Public Utility Commission to investigate and validate load forecasts submitted by Pennsylvania utility companies to PJM Interconnection, coordinate with PJM and other states so that system planning reflects accurate information, and obtain access to confidential materials that are necessary to perform this oversight. PJM relies on load forecasts submitted by Pennsylvania utility companies to plan system needs and set capacity requirements that affect costs to consumers. The Fiscal Code states that PUC oversight of load forecasts is necessary to provide information on projections for significant growth in electricity demand driven by data centers, vehicle and building electrification, and other large load additions.

For more information on the implications of the 2025 Fiscal Code or other related matters, please contact Kevin Garber at (412) 394-5404 or kgarber@babstcalland.com, or Alexandra Graf at (412) 394-6438 or agraf@babstcalland.com.