PENNSYLVANIA BUDGET INSTITUTES NEW PERMITTING REFORMS, ABROGATES PENNSYLVANIA RGGI RULE

Date: 17 November 2025

US Policy and Regulatory Alert

By: David J. Raphael, Tad J. Macfarlan, Samuel R. Boden, Coleman N. Wheeler

On 12 November 2025, Governor Shapiro signed into law a budget for fiscal year 2025-2026 (SB 160) and accompanying amendments to the Fiscal Code (HB 416) (collectively, the Budget Bill). The Budget Bill abrogates Pennsylvania's participation in the Regional Greenhouse Gas Initiative (RGGI) and contains important permitting reforms intended to increase efficiency and transparency by building on the Streamlining Permits for Economic Expansion and Development (SPEED) Program.

LEGISLATIVE ABROGATION OF RGGI RULE

RGGI is a multistate compact among certain Northeastern states that seeks to reduce power sector greenhouse gas emissions through the operation of a cap-and-trade program. Operators of fossil fuel-fired power plants in RGGI states are required to purchase allowances, either through quarterly auctions or the secondary market, to offset their carbon dioxide emissions. In 2019, then-Governor Tom Wolf issued an Executive Order directing the Pennsylvania Environmental Quality Board (EQB) to institute a rulemaking implementing RGGI in Pennsylvania. The EQB finalized that rule in 2022. Thereafter, in 2023, the Commonwealth Court declared the RGGI rule to be an unconstitutional tax adopted without legislative authorization and enjoined the rule's implementation.[1] The Shapiro administration appealed the Commonwealth Court decisions to the Pennsylvania Supreme Court, where the appeals remain pending.

The Budget Bill now legislatively abrogates the RGGI rule. On 13 November, the Commonwealth filed applications to discontinue its appeals with the Pennsylvania Supreme Court.[2]

PERMIT STREAMLINING AND TRACKING

The Budget Bill also includes several important permitting reforms that are intended to expedite and enhance transparency of key permit programs in the Commonwealth.

First, the Budget Bill establishes new permitting transparency requirements for all state agencies. Each state agency must, within 90 days, make publicly available on their website a list of permits they administer accompanied by information listed in the bill and update it annually. All state agencies must also establish a permit application tracking system, viewable online, that provides the processing time, the dates associated with the stages of the process, an estimated time for each incomplete portion of the permit, and the identity of the assigned state agency employee.

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Second, the Budget Bill makes additional permits issued by the Department of Environmental Protection (DEP) eligible for review under the previously adopted SPEED program. Storage tank site specific installation permits, short-term construction mining general permits, and concentrated animal feeding operation permits are all now SPEED-eligible.

Third, the Budget Bill establishes “deemed approval” deadlines for certain DEP permits, including (1) general plan approvals and general permits issued pursuant to the Air Pollution Control Act (APCA) and (2) renewals of coverage under certain National Pollutant Discharge Elimination (NPDES) general permits.

For general plan approvals and general permits under APCA, DEP must identify any technical deficiencies within 20 days of submission. If the applicant addresses each deficiency within 25 days of submission, DEP must issue a final determination on the application within 30 days of submission, unless the applicant agrees to extend the 30-day deadline by a maximum of five additional days. If DEP does not meet this 30-35-day deadline, the application is deemed approved.

Similarly, for renewals of certain NPDES general permits, DEP must identify any technical deficiencies within 40 days of submission. If the applicant addresses each deficiency within 50 days of submission, DEP must issue a final determination within 60 days of submission, unless the applicant agrees to extend the 60-day deadline. If DEP does not meet its deadline, the application is deemed approved. The categories of NPDES general permits that are subject to this framework are:

1. Discharges of storm water associated with industrial activities;
2. Discharges from small-flow treatment facilities;
3. Discharges from petroleum product contaminated groundwater remediation systems; and
4. Wet weather overflow discharges from combined sewer systems.

The new deemed approval deadlines have the potential to significantly expedite the permit process for entities seeking coverage under the relevant general permits. It will be of paramount importance for these applicants to submit complete and technically adequate permit applications, and timely respond to any identified technical deficiencies, in order to take advantage of the expedited permit review time frames—and avoid equally expeditious permit denials.

CONCLUSION

The Budget Bill represents another incremental step forward in instituting meaningful permitting reform in Pennsylvania, building off of the July 2024 SPEED Act and Governor Shapiro's November 2024 Permit Fast Track Program. The Budget Bill's abrogation of the RGGI rule also comes as a welcome development for many in the business community. Notably, the Pennsylvania Chamber of Business and Industry released a statement praising both of these aspects of the Budget Bill. As with all legislation, the ultimate impact of these reforms will turn in large part on how they are implemented in practice, and, of course, how they will withstand the legal challenges that will almost certainly follow. Members of business and industry who rely on the environmental permits covered by the Budget Bill to operate on a daily basis will need to closely monitor what courts have to say about these legal challenges to avoid operational disruptions.

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FOOTNOTES

[1] *Ziadeh v. Pa. Leg. Ref. Bur.*, 41 MD 2022 (Pa. Cmwlth. Nov. 1, 2023); *Bowfin KeyCon Holdings, LLC v. Pa. Dept. of Envtl. Prot.*, 247 M.D. 2022 (Pa. Cmwlth. Nov. 1, 2023).

[2] *See Shirley v. Pa. Leg. Ref. Bur.*, 106 MAP 2023; *Bowfin KeyCon Holdings, LLC v. Pa. Dept. of Envtl. Prot.*, 107 MAP 2023.

KEY CONTACTS



DAVID J. RAPHAEL
PARTNER

HARRISBURG, PITTSBURGH
+1.717.231.4574
DAVE.RAPHAEL@KLGATES.COM



TAD J. MACFARLAN
PARTNER

HARRISBURG
+1.717.231.4513
TAD.MACFARLAN@KLGATES.COM



SAMUEL R. BODEN
ASSOCIATE

HARRISBURG
+1.717.231.4502
SAM.BODEN@KLGATES.COM



COLEMAN N. WHEELER
ASSOCIATE

HARRISBURG
+1.717.231.4820
COLEMAN.WHEELER@KLGATES.COM

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