




Senate Appropriations

Senate Appropriations Committee budget hearing with DEP (BH)

3/22/23, 9:30 a.m., Hearing Room 1, North Office Building

By Wade Davis, Pennsylvania Legislative Services

Committee(s):	Senate Appropriations Committee
Video:	 (click here)
Meeting type:	Budget hearing
Subject:	Department of Environmental Protection
Bills discussed:	(N/A)
Keyword(s):	energy, environment, staffing, inflation, redevelopment, hydrogen
Testimony:	Acting Sec. Richard Negrin, Department of Environmental Protection (DEP) Jessica Shirley, acting executive deputy secretary, DEP Ian Harlow, acting deputy secretary for administration, DEP Ramez Ziadeh, acting deputy secretary for field operations, DEP
Members Present:	Chairman Scott Martin (R-York), Minority Chairman Vincent Hughes (D-Philadelphia) and Senators Elder Vogel (R-Beaver), Lisa Baker (R-Luzerne) Rosemary Brown (R-Monroe), Lynda Schlegel Culver (R-Columbia), Cris Dush (R-Jefferson), Frank Farry (R-Bucks), Wayne Langerholc (R-Cambria), Tracy Pennycuick (R-Montgomery), Kristin Phillips-Hill (R-York), Devlin Robinson (R-Allegheny), Greg Rothman (R-Cumberland), Pat Stefano (R-Fayette), Tim Kearney (D-Delaware), Scott Hutchinson (R-Venango), Art Haywood (D-Montgomery), Carolyn Comitta (D-Chester), Nicholas Miller (D-Lehigh), Steve Santarsiero (D-Bucks), Nikil Saval (D-Philadelphia), Judy Schwank (D-Berks) Sen. Gene Yaw (R-Lycoming) and Sharif Street (D-Philadelphia)

The committee held a budget hearing with the Department of Environmental Protections (DEP) featuring:

- Acting Sec. Richard Negrin, DEP,
- Jessica Shirley, acting executive deputy secretary, DEP,
- Ian Harlow, acting deputy secretary for administration, DEP and
- Ramez Ziadeh, acting deputy secretary for field operations, DEP.

Chairman Martin stated that DEP's budget proposal totals \$199.6 million.

Sen. Yaw, chairman, Senate Environmental Resources and Energy Committee, focused on the general budget's inclusion of Regional Greenhouse Gas Initiative (RGGI) provisions, costing a total of \$663 million. He asked what RGGI is and how it would be funded. Sec. Negrin responded that RGGI intends to "put a price on carbon." He described RGGI as a compact between states to use a market-based approach to carbon pricing. Sen. Yaw pondered about the source of RGGI's funding. Sec. Negrin said the money in the general budget is to be used to cut carbon emissions. He added the Shapiro administration wants to establish a working group to address climate threats, create and protect energy

jobs and ensure Pennsylvanians have reliable, clean energy. He indicated he would have more information on the working group later in the day. Shirley outlined how RGGI uses a "cap-and-trade" strategy for emissions trading and noted the states in the compact would all share credits. She explained that one-third of the commonwealth's produced energy would be sent outside its borders to return to the commonwealth as revenue. She indicated through the electricity provided to other states in the compact would help to cover expenses for each member.

Sen. Yaw asked if the commonwealth's expected revenue after joining RGGI would exceed costs related to energy production. Shirley stated the projections and estimates around RGGI were not intended as a "crystal ball," but were aimed at gauging the results of potential investments. She continued if the expected revenue is re-invested in Pennsylvania's energy infrastructure, the production costs should decrease over time. Sen. Yaw requested details on the members and leadership of RGGI. Shirley replied 13 states are part of RGGI, with Virginia as another potential member. She claimed there is unanimous agreement among RGGI members, with no state leading the group. She specified the states agree on the carbon cap.

Sen. Yaw wondered who collects the money for RGGI. Shirley answered a nonprofit corporation, RGGI LLC, collects the money. Sen. Yaw followed up by asking who the specific members of RGGI include. She noted the board of directors of the RGGI corporation are drawn from each state in the compact.

Sen. Yaw voiced concern over RGGI and its funding. Shirley articulated that the panel has not entered discussions about RGGI yet. Sec. Negrin stated RGGI is in the general budget because excluding the significant proposal would be irresponsible. He argued the budget is just the "beginning of the process," as RGGI is not implemented.

Sen. Yaw questioned if DEP's requests for additional staff pertains to the RGGI provisions. Sec. Negrin replied in the affirmative. Sen. Yaw asked what the additional staff would be doing. Shirley answered the employees would ensure each state follows RGGI and develop recommendations for the program.

Sen. Comitta, minority chairman, Senate Environmental Resources and Energy Committee, highlighted DEP's "limited" staffing and the department's plans to expand. She requested details on how accountability over violating environmental health could be imposed. Sec. Negrin explained there are 47 total positions open in DEP, with 30 of the jobs oriented towards enhancing permitting operations and oversight. He claimed he developed a plan to improve the commonwealth's permitting process over several weeks. He added he is in talks with the Office of Transformation and Opportunity.

Sec. Negrin noted the 30 open DEP positions would act as "permit specialists, who specifically lean in on permits that we think are hard to accomplish, that often take a long time, that maybe have some strategic importance for us in terms of number of jobs, industry, practice, special project in terms of some priorities." He concluded by reiterating that this year's budget is a start to a conversation over DEP's future.

Ziadeh articulated how the permitting system and regulations should be streamlined because complex DEP projects require multiple approvals before they start. He added DEP is promoting establishing a meeting procedure that would allow permit applicants to speak to a permitting official. He noted DEP could increase its outreach to stakeholders to garner feedback on the status of the permitting process and the department's online user experience. He repeated that permit review periods and operational efficiencies could be improved.

Sec. Negrin detailed how DEP is creating a center of excellence (COE) within the department to track its operational metrics and its usage of federal dollars. He noted a management program in Philadelphia, PhillyStat, was used as an example.

Sen. Comitta asked for an explanation on abandoned and orphaned wells in Pennsylvania and DEP's plan to use federal and state funds to cap the wells. Sec. Negrin stated \$25 million was obtained by DEP in the past year to cap wells, and around \$500 million in federal money is available. He expressed his hope the commonwealth prioritizes capping the estimated 300,000 wells since the results would positively affect the environment and economy.

Sen. Culver focused on Pennsylvania's waterway commissions and its importance to her constituents. She inquired why DEP requested \$2.5 million for the Delaware River Basin Commission (DRBC), the Susquehanna River Basin Commission (SRBC), and the Ohio River Valley Water Sanitation Commission (ORSANCO), a 76 percent increase from last year. Sec. Negrin affirmed DEP's prioritization of protecting the waterways. He asserted the budget proposal would provide DEP a sustainable funding source for the waterways and staff training. Shirley added that last year, DRBC and SRBC were not equally funded. She outlined how the member states and federal government would each pay fees to the commissions. She noted the budget proposal reflects the commission members' own requests.

Sen. Culver wondered if each commission member is paying their share. Shirley responded she is unsure if the federal government is paying enough, as there was recently a letter from DRBC to the U.S. Department of Defense asking them to "pay their fair share."

Sen. Culver questioned about alternative funding sources for the commissions and pondered how the commissions are funded. Shirley suggested permit fees are typically the main way to fund the river basin commissions.

Sen. Brown outlined her efforts to maintain dams situated in her constituency. She argued the Dam Safety Division (DSD) of the Bureau of Waterways Engineering and Wetlands (BWEW) has not been fully supported. Sec. Negrin ascribed the division's problems to DEP's responsiveness, for which he blamed himself. "We serve the public," he commented. "It's incredibly important for folks to understand who we are from a cultural perspective." He concluded the public is not a "bad actor" and DEP would change to represent all those in the commonwealth while still carrying out its duties.

On the commonwealth's dams, Ziadeh agreed DSD is understaffed and noted many experienced workers were lost over the past several years. He noted DEP is contracting with a consulting firm to help streamline its processes and facilitate discussions with stakeholders. He added the commonwealth has many hazardous dams that DEP must account for in its plans. He commented there were instances where DEP ordered certain areas to drain their dams.

Sen. Saval highlighted two projects seeking federal dollars to develop hydrogen hubs in Pennsylvania. He raised concern over the hubs' emission of blue hydrogen. He questioned if the hubs would be safer for the environment. Sec. Negrin described the hub projects as using "emerging technology" and complicated to explain. He affirmed DEP's commitment to ensuring, through the permitting process, that the environment is safe. Despite the concerns, Sec. Negrin voiced his excitement to create jobs and foster cleaner energy production through the hub projects.

Sen. Saval questioned if state-specific standards on consistent hydrogen production could be enacted and not conflict with Gov. Shapiro's intention for net zero emissions by 2050 and guarantee public safety and community benefits agreements for those living by the hydrogen hubs. Sec. Negrin reiterated the

hubs are still in development and he is unsure of the answer. He asserted DEP would have contact with its partners in the federal government to remain updated on any standards. He added he does not foresee new permits having to be created for the projects.

Sen. Pennycuick asserted the commonwealth's brown sites are underserved. She inquired how DEP is redeveloping the sites. Sec. Negrin indicated his support for projects on brown sites that do not harm the environment like solar panels. He underscored that DEP would have to study and review the best way to address brown sites and work "hand-in-hand" with the private sector to develop the sites.

Sen. Pennycuick requested more transparency on brownfield site remediation from DEP in the future. Sec. Negrin detailed how DEP provides information to the public on television and online. He stated he wants DEP to receive public input and be held accountable for its mistakes. Sen. Pennycuick noted her district had a "kerfuffle" with DEP over private ownership of a brownfield site. She shared her "frustration" at the regulations and processes that prevent brownfield sites from being redeveloped.

Sen. Schwank asserted though farmers are willing to comply with agricultural standards, the wait for funding is taking too long. Sec. Negrin responded the overall theme of DEP's testimony is oriented towards how the department can improve its "operational excellence" and help constituents faster. Shirley asked about the funding source for Sen. Schwank's district. Sen. Schwank replied the funding source is the Mariner East pipeline fund. Shirley postulated staffing issues could have hampered the release of funds. Sec. Negrin reiterated that he would attend meetings with other state agencies like the Department of Agriculture (PDA) to identify where DEP's assistance is needed.

Sen. Robinson relayed his eagerness to work with DEP on permitting reform. He sought details on last year's permitting process and the number of permit applications that did not qualify. Ramaz answered of the 40,018 permit requests DEP received last year, only 9,088 were eligible for the permit guarantee timeframe. He suggested improvements to the permit application system would help.

Sec. Negrin asserted he wants to develop a formal standard regarding the permitting process, since DEP could have been in error when rejecting an application. He indicated DEP plans to bring in outside experts to review the permit process and DEP's practices.

Sen. Robinson wondered about a timeline for the reforms. Sec. Negrin stated he came up with the plans for permitting reform two weeks ago. He underscored how DEP would seek assistance from the legislature and other state agencies to quickly fix issues with permits and ensure DEP is not ill-equipped. He reiterated his focus is on permitting, operational excellence and emergency response.

Sen. Street professed his interest in re-authorizing of the Alternative Energy Portfolio Standards (AEPS) Act and reducing carbon emissions while increasing energy production. He wondered how DEP views the standards. Sec. Negrin claimed the standards would drive DEP's direction for the future and is a link between energy production and carbon emissions. He voiced support for the standards and noted they may require alteration in the future. He highlighted that members of an international agreement to lower carbon emissions are not meeting their goals. He emphasized balancing public safety with adequate energy production.

Sen. Street inquired about alternative fuel vehicles. Shirley responded the Department of Transportation (PennDOT) and DEP have partnered on electric vehicle advocacy. She noted though funding for alternative fuel vehicle infrastructure is out, other strategies could be employed to promote electric vehicles in the commonwealth. Sec. Negrin declared the state's actions must reflect its commitment to alternative fuels.

Sen. Vogel thanked the panel for its efforts during the train derailment in East Palestine, Ohio, which is near his district. He queried if the lack of funding for capping orphaned wells would be covered by the federal government. Shirley indicated the fund for plugging wells collects fines, fees and penalties and is currently running out of money. She explained around \$79 million would be given to DEP this year solely to plug wells. She estimated 3,000 wells could be plugged with the amount. Sen. Vogel wondered if Pennsylvania companies could plug the wells. Shirley answered there is an ongoing bidding process. She noted there are few well-plugging companies available in the commonwealth to hire. She added most bids on the current contract are from local companies. Sec. Negrin outlined how office closures impacted the commonwealth's operations. He suggested the capped wells would benefit the commonwealth's industry.

Sen. Dush noted DEP requested \$470 million for abandoned mine reclamation. He wondered if DEP would partner with other entities to examine rare earth elements in the mines. Sec. Negrin estimated there are 13 or 14 rare earth elements that could be extracted from abandoned mines. He emphasized his commitment to innovating DEP's operations.

Sen. Dush detailed how out-of-state companies are interested in the commonwealth's mines and asserted extracting rare earth elements would decrease reliance on China. He argued RGGI is unconstitutional as it did not receive a federal vote to approve RGGI. Sec. Negrin replied the federal vote was not provided. He commented that he expects RGGI to be decided upon by the courts and the governor.

Sen. Dush questioned if there is a statutory definition for "environmental justice." Sec. Negrin indicated he is unsure if there is a definition. He asserted his definition of environmental justice includes rural and urban areas and all demographics. He commented DEP has not done enough to promote environmental justice or utilize federal dollars that have been allotted for the issue.

Sen. Phillips-Hill voiced her frustration over permitting. She detailed how the waiting times for approvals take so long, the application could end up in noncompliance as regulations changed during the wait. She remarked she has been unable to secure permitting reform in the legislature. She wondered if DEP is willing to formalize permit reforms. Sec. Negrin stated though conversations on formal legislation did not occur, DEP is in contact with Gov. Shapiro and is willing to discuss codifying permit reform.

Sen. Phillips-Hill argued issues with permitting would continue to burden Pennsylvanians in the future without a permanent change.

Sen. Stefano related his district's poor reputation for permit application delays. He asked if all regional director positions in DEP have been filled. Sec. Negrin replied in the affirmative. He expressed his gratitude towards the efforts of Jim Miller, director, southwest regional office, DEP, who contacted each regional office to identify their needs.

Sen. Stefano asked if work is being spread across each DEP region. Ziadeh replied that even though the responsibilities in each region differ, there is a workshare agreement to reduce backlogs. He stated last year, around 19,000 hours of overtime was clocked to reduce the workload.

Sen. Stefano wondered if DEP would allow third-party review for the regions' workload. Sec. Negrin responded that his permit specialist team acts to quickly assist with permits. He affirmed a yearly plan is needed to address the large amount of permit applications.

Sen. Yaw voiced his anticipation to work with DEP on the Delaware River Basin. He detailed his constituents' challenges with permitting. He asked how each region could be held to the same standard.

Sec. Negrin affirmed a level of predictability is important and contended uniformity is a "best practice." He illustrated his desires to streamline permitting and use technology to achieve more efficiency. Harlow added DEP wants to review current standards as to not hamper Pennsylvanian workers.

Sen. Comitta asked how orphaned wells could be addressed without funding and how accountability could be enforced over uncapped wells. Sec. Negrin explained his plan for a working group on uncapped wells to identify the best ways to cap them while remaining in compliance with state regulations. He suggested more information on the issue would be announced soon.

Sen. Comitta queried about DEP's progress on offering a determination on dumping drilling wastewater on roads. Shirley responded DEP has examined studies and spoke with experts on wastewater dumping and did not approve any coproduct determination. She noted roadspreading of brine is not allowed in Pennsylvania.

Sen. Brown asked what DEP dislikes about the budget. Sec. Negrin opined he is worried about long-term funding for DEP. He reiterated how the budget is "heading in the right direction," though he could still not completely foresee DEP's needs. He suggested good management and prudence that implements gradual improvements to DEP would not exhaust funding. He concluded that next year's data would elucidate what DEP needs more clearly.

Sen. Saval inquired about the steps DEP is taking to acquire federal funding to reduce carbon emissions. Shirley replied DEP is utilizing federal money from the Greenhouse Gas Reduction Fund which would establish a green bank, plan for climate pollution reduction and focus on electric home and home rebate programs. She indicated DEP did not receive federal guidance on several of the grants and it is looking at other states for examples. Sec. Negrin noted DEP would track a grant's "time-to-spend" to ensure they are provided to individuals quickly.

Sen. Vogel inquired about DEP's West Nile Virus spraying program. Harlow replied he would provide the information to the committee. Sec. Negrin suggested the budget item for the program is only a default amount. He added the funding is "enough for now," though it may require an increase.

Sen. Schwank highlighted the lack of recycling awareness in Pennsylvania. Shirley stated 91 percent of Pennsylvanians have recycling services and 57 percent have access to curbside pickup or drop off programs. She indicated current recycling provisions are at least 35 years old and do not reflect the current state of the commonwealth. She noted DEP devised a white paper on recycling. Sec. Negrin asserted recycling is also an environmental justice issue. He remarked that younger individuals are more educated on recycling.

Sen. Pennycuick requested DEP's policies on recycling wind turbines and lithium-ion batteries found in electric vehicles. Shirley replied she was unsure if the federal or state government would recommend the policy.

Sen. Robinson focused on the impact of coal power plants on Pennsylvania. He asked if the commonwealth should prioritize energy diversity or augment current energy production. Sec. Negrin responded that a "healthy mix" of energy sources is optimal, especially nuclear power due to its stability. He opined improvements made to battery storage has made the process more efficient. He added the hydrogen hubs would further help with energy production.

Sen. Robinson raised concern about obtaining the materials needed for DEP's projects.

Sen. Dush inquired if DEP would use a tracking process to incentivize high-performing employees and address underperforming employees. Sec. Negrin noted the tracking DEP uses aims to hold employees accountable. He affirmed the department works to identify problems and not punish its workers. He declared the department would avoid litigation and act as "strong, humble, confident leaders."

Sen. Phillips-Hill shared that in her district there are plans for a hydroelectric plant that would condemn 1,000 acres of family-owned land through RGGI. She asked if DEP had any information on how RGGI would be carried out. Sec. Negrin asserted cap-and-trade has assisted with problems like acid rain.

Sen. Phillips-Hill wondered how money is directed through RGGI. Sec. Negrin replied his proposed working group would gather RGGI information and speak with lawmakers on the initiative. Sen. Phillips-Hill stated before a working group is formed, more answers on RGGI are required. Sec. Negrin described RGGI as "a vehicle" to achieve goals that improve the environment.

Sen. Stefano inquired why DEP is requesting 15 new employees in the budget. Harlow affirmed the individuals would take part in the permitting reforms and streamlining of DEP's operational processes. Sec. Negrin explained the 15 requested employees are part of the 30 total positions requested to improve permitting.

Sen. Kearney requested details on DEP's staffing shortages. Sec. Negrin outlined his experience joining DEP and his communications with a previous official. He noted DEP's projected labor pool, when compared to previous years, is "somewhere in the middle" with 2,717 total employees. He commented the 47 total requested employees is sufficient for this year, though increases may be needed.

Sen. Kearney asked how many orphaned and abandoned wells exist in the commonwealth. Sec. Negrin differentiated between orphaned wells and abandoned wells. He stated many of the wells are antiquated and could be scattered inconspicuously across the state.

Sen. Kearney asked if abandoned wells have an associated bond. Sec. Negrin replied in the affirmative. Shirley explained if the well was drilled and abandoned before 1985 it is considered orphaned, and wells drilled and abandoned after 1985 are considered abandoned and that DEP's focus is on orphaned wells. She estimated 300,000 orphaned wells could exist in Pennsylvania, with some estimates as high as 700,000 wells. She indicated DEP is aware of the location of 27,000 of the wells. She added the hardest wells to cap cost \$97,000.

Sen. Kearney asked about the bond amounts provided to recent abandoned wells. Shirley asserted the bonds are not large enough to assist. She affirmed unconventional wells, generally related to fracking, are being plugged by operators.

Sen. Kearney outlined his district's plan to have zero waste. He wondered about the costs of recycling cover devices and if revenue could be improved. Shirley explained as technology like televisions and computers have decreased in size and weight, amendments to the Cover Device Recycling Act (CDRA) could be made. She shared that DEP's rural waste transfer station permit by rule has recently been expanded in recognition of the difficulties with recycling.

Sen. Kearney asked if DEP would help counties fight illegal dumping. Shirley responded DEP worked with PennDOT and Keep Pennsylvania Beautiful to develop the first ever litter action plan for the state. She explained the plan is not solely about illegal dumping but does contain information constituents may use.

Sen. Kearney inquired if there are plans to continue the GreenGov Council and what DEP is doing to reach carbon emissions goals. Sec. Negrin responded specific conversations on the entity have not taken place, though he is able to discuss the issue further.

Chairman Martin questioned if DEP looked to remove unnecessary operations and "dead weight." Sec. Negrin answered he wanted to participate in the budget talks and receive his confirmation as secretary before moving forward with cutting or altering areas of DEP.

Chairman Martin asked why \$8.5 million in personnel costs from the Non-Coal Surface Mining Conservation and Reclamation Fund and Clean Water Fund have been transferred to the general fund. Harlow replied that DEP had to alter its operations to reflect the year's budget. He specified the transfer to the general fund would be used to cover existing personnel costs.

Chairman Martin focused on Clean Streams Fund and the benefits of clean water to Pennsylvanians. He asked how DEP is promoting clean water. Shirley repeated that DEP wanted to have a constant funding source, resulting in the Clean Streams Fund. She indicated clean water increases property values and fosters tourism. Chairman Martin underscored the importance of clean water and contended the implementation of environmental regulations should demonstrate the commonwealth's effective use of money.

Chairman Martin commented that DEP and its relationship to the public could be improved. He commented that economic conditions and Pennsylvania's changing demographics are factors DEP must consider. He related when a company that wanted to build a mushroom processing plant had to wait so long for approval from the commonwealth that the company took its business to Maryland. He suggested removing unnecessary regulations, installing a permitting process that is efficient and accountable and improving the state's energy infrastructure. He concluded by affirming the committee's willingness to cooperate with DEP and aid the commonwealth's constituents.

Chairman Martin queried if the state should be examining the "back end" of energy production for potential cost savings. Sec. Negrin replied in the affirmative, citing the importance of getting the "entire picture" of Pennsylvania's environmental wellbeing.

Chairman Martin argued it is easy for projects to get funded if they provide results. He thanked the panel for their answers and offered to hold future discussions.

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