

HOUSE BILL 458

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Meredith A. Dixon and William E. Sharer and Jack Chatfield
and Nathan P. Small and Steve D. Lanier

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE GEOLOGIC CARBON
DIOXIDE STORAGE STEWARDSHIP ACT; PROVIDING RULEMAKING
AUTHORITY; CREATING A FUND; PERMITTING TRANSFER OF STEWARDSHIP
TO THE STATE; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Geologic Carbon Dioxide Storage Stewardship Act".

.228939.3AIC March 22, 2025 (11:22am)

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SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

Geologic Carbon Dioxide Storage Stewardship Act:

A. "carbon dioxide" means carbon dioxide produced by anthropogenic sources or captured from the atmosphere, including qualified carbon oxide as defined pursuant to applicable federal law and carbon dioxide stream as may be defined in federal law and regulations pertaining to class HENRC→VI←HENRC HENRC→6←HENRC carbon dioxide injection wells;

B. "division" means the oil conservation division of the energy, minerals and natural resources department;

C. "geologic sequestration" means the long- or short-term underground sequestration of carbon dioxide within a geologic stratum, formation, aquifer, cavity or void, whether naturally or artificially created, including deep saline aquifers, oil and gas reservoirs and unminable coal seams, such that injected carbon dioxide does not escape to the atmosphere;

D. "operator" means a person who has the right to inject carbon dioxide for geologic sequestration into a sequestration facility, whether for the person's own account or for the account of others;

Sf12→E. "pore space" means the empty space between rock grains, fractures and voids in the earth's subsurface; "pore space" is the available space within, and contained by, geologic formations;←Sf12

Sf12→E.←Sf12 Sf12→F.←Sf12 "sequestration

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facility" means carbon dioxide injection wells, monitoring wells and devices, science wells, but excluding stratigraphic and similar wells for assessing the nature of the subsurface, and other wells used for the injection of carbon dioxide in subsurface geologic formations, including the underground equipment, pipelines and surface equipment and buildings used for the purpose of geologic sequestration of carbon dioxide. "Sequestration facility" includes a facility that injects carbon dioxide for secure geologic sequestration pursuant to applicable federal laws, including a geologic sequestration project as may be defined in federal regulations pertaining to federal environmental protection agency class HENRC→VI←HENRC HENRC→6←HENRC underground injection control wells for carbon dioxide injection wells; and

Sf12→F.←Sf12 Sf12→G.←Sf12 "sequestration unit" means the geologic formation or formations proposed for the injection of carbon dioxide for geologic sequestration and the lands to be included within the unit. "Sequestration unit" does not include oil and gas units where carbon dioxide is injected for purposes of enhancing oil and gas production.

SECTION 3. [NEW MATERIAL] APPLICABILITY--DIVISION
AUTHORITY--RULEMAKING.--

A. The Geologic Carbon Dioxide Storage Stewardship Act applies to sequestration facilities that commence injection

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of carbon dioxide after the effective date of that act;
provided that sequestration facilities that commenced injection
of carbon dioxide before the effective date of that act may
apply to the division for a certificate of completion of
injection operations and for the transfer of the continuing
stewardship responsibilities to the state pursuant to
applicable statutes and rules and after payment of a fee
equivalent to the fee that the division would otherwise have
collected pursuant to Section 5 of that act.

B. The division has the jurisdiction and authority
necessary to enforce the provisions of the Geologic Carbon
Dioxide Storage Stewardship Act and may adopt and promulgate
rules and issue orders for the implementation of the provisions
of that act.

C. The fees collected from operators and deposited
in the geologic carbon dioxide long-term storage stewardship
fund shall not relieve a facility owner or operator from
responsibility for posting and maintaining financial assurance
mechanisms as required by applicable statutes and rules or from
any liability caused by conditions or operation of a
sequestration facility prior to transfer of stewardship.

**SECTION 4. [NEW MATERIAL] CERTIFICATE OF CLOSURE FOR
GEOLOGIC SEQUESTRATION UNITS.--**

A. An operator that has obtained a permit for
geologic carbon dioxide sequestration may ask for a certificate

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of closure for that site; provided that the operator can demonstrate that the storage has demonstrated long-term security, monitoring of the site has not shown significant risk of future leakage and the conditions as provided in Subsection E of Section 6 of the Geologic Carbon Dioxide Storage Stewardship Act are satisfied.

B. The lands to be included on the certificate of closure shall be the reasonably ascertained areal extent of migration of the sequestered carbon dioxide within the formation or formations and shall include all necessary and reasonable areal buffer and subsurface monitoring zones as required by federal or state law, rule, regulation, order or permit.

C. The commissioner of public lands or a state agency may grant to an operator a certificate of closure for geologic sequestration on lands subject to the agency's jurisdiction on such terms as the agency finds are reasonable.

D. The division may grant to an operator a certificate of closure HENRC→not less than five years←HENRC after completion of injection activities and satisfaction of the requirements of the Geologic Carbon Dioxide Storage Stewardship Act, allowing for the transfer of stewardship to the state.

SECTION 5. [NEW MATERIAL] GEOLOGIC CARBON DIOXIDE LONG-TERM STORAGE STEWARDSHIP FUND CREATED.--

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A. The "geologic carbon dioxide long-term storage stewardship fund" is created as a nonreverting fund in the state treasury. The fund consists of fees collected from operators at a rate of H AFC →not less than←H AFC ten cents (\$.10) per metric ton of carbon dioxide injected for storage pursuant to applicable statutes and rules, distributions, appropriations, gifts, grants and donations. H AFC →The oil conservation commission shall establish by rule a fee schedule sufficient to meet the projected needs of the fund.←H AFC All fees collected pursuant to this section shall be transmitted to the state treasurer for credit to the fund. All money in the fund is appropriated to the division for the sole purpose of ensuring the long-term storage security of geologic sequestration facilities. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources.

B. The division shall administer the geologic carbon dioxide long-term storage stewardship fund, and money in the fund shall be used for:

(1) long-term monitoring of geologic sequestration facilities and associated class H ENRC →VI←H ENRC H ENRC →6←H ENRC injection wells;

(2) remediation of mechanical problems associated with geologic sequestration facilities and

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associated carbon dioxide class HENRC→VI←HENRC HENRC→6←HENRC injection wells;

(3) repairing mechanical leaks at geologic sequestration facilities;

(4) plugging abandoned carbon dioxide class HENRC→VI←HENRC HENRC→6←HENRC injection wells used for geologic sequestration;

(5) remediation of surface facilities, access, and rights of way related to a geologic sequestration site;

(6) training and technology transfer related to carbon dioxide injection and geologic sequestration;

(7) compliance and enforcement activities related to geologic sequestration facility operation and associated class HENRC→VI←HENRC HENRC→6←HENRC injection wells;

(8) oversight and management of geologic sequestration facilities and associated class HENRC→VI←HENRC HENRC→6←HENRC injection wells after site closure; and

(9) emergency response as deemed necessary by the director of the division.

SECTION 6. [NEW MATERIAL] CERTIFICATE OF COMPLETION OF INJECTION OPERATIONS--LIABILITY RELEASE.--

A. The division shall issue a certificate of completion of injection operations upon a showing by the operator of a sequestration facility and a division finding

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that the requirements of Subsection E of this section have been satisfied.

B. Upon the issuance of a certificate of completion of injection operations:

(1) all stewardship H AFC → and ← H AFC
HENRC → legal ← HENRC responsibilities for the sequestration facility HENRC → that are covered in Subsection B of Section 5 of the Geologic Carbon Dioxide Storage Stewardship Act ← HENRC , including the stored carbon dioxide, shall transfer to the state;

(2) the operator, owners and all persons who generated, transported or injected carbon dioxide into the sequestration unit and all owners otherwise having an interest in the sequestration unit and sequestration facility or the injected carbon dioxide shall be released from all stewardship responsibilities associated with or related to the sequestration unit and sequestration facility;

(3) all bonds posted by or on behalf of the operator shall be released; and

(4) the state shall succeed and be subject to the terms of all agreements, permits, rules, regulations and orders applicable to the owner or operator and its successors, and the sequestration facility and all monitoring, repair and remediation required by law shall become the state's responsibility to be overseen by the division, unless and until

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the federal government assumes responsibility for the long-term monitoring and management of the sequestration unit and sequestration facility.

C. The release from stewardship responsibilities provided pursuant to this section shall not apply to an owner or operator or generators or transporters of injected carbon dioxide if, after notice and hearing, the division determines that:

(1) the person provided deficient or erroneous information that was material and relied upon by the division to support approval of the sequestration facility's certification of completion;

(2) the person concealed or misrepresented facts relating to the mechanical integrity of the sequestration facility or sequestration unit or the chemical composition of the injected carbon dioxide;

(3) the operator violated a state statute or rule related to the sequestration facility that was not remedied prior to approval of site closure and any applicable statutes of limitation have not run;

(4) liability arises from the operator's conduct associated with the sequestration facility or sequestration unit that, if known, would have materially affected the division's decision in issuing the certification of completion;

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(5) the division determines that there is fluid migration for which the owner or operator is responsible that causes or threatens imminent and substantial endangerment to an underground source of drinking water; or

(6) the division determines that the geologic carbon dioxide long-term storage stewardship fund is insufficient to cover costs arising from the sequestration unit or sequestration facility.

D. The division shall set the certification matter for hearing and, in addition to notice otherwise required by law or the division's rules, shall cause the operator to give notice of the hearing, specifying the time and place of the hearing and describing briefly the hearing's purpose and the land and formations affected, to be mailed by certified mail at least thirty days prior to the hearing to all persons whose names and addresses are required to be listed in the application.

E. The certificate of completion of injection operations shall be issued upon a showing by the operator and division findings that:

(1) the operator is in full compliance with all laws governing the sequestration unit and sequestration facility;

(2) the operator has resolved all claims, pending or perfected, regarding the sequestration unit and

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sequestration facility;

(3) the sequestration unit is reasonably expected to retain the carbon dioxide stored in it;

(4) the carbon dioxide in the sequestration unit is stable and does not show a significant risk of future movement and leakage;

(5) all wells, monitoring devices, equipment and facilities to be used following the cessation of injection are in good condition and retain mechanical integrity; and

(6) the operator has plugged all wells and removed all equipment and facilities, unless the equipment and facilities are needed for use following the cessation of injection, and has completed all reclamation work required by law.

Sf12→SECTION 7. [NEW MATERIAL] OWNERSHIP OF PORE SPACE WITHIN THE EARTH.--

A. Absent specific language in a severing instrument to the contrary, the surface estate includes the pore space, and the ownership of all pore space in all strata below the surface lands and waters of this state is declared to be vested in the several owners of the surface above the strata or formations.

B. To the extent the dominant mineral estate is reasonably utilizing the surface estate for the production of minerals located thereon and therein, the formations so used

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shall not be interfered with.

C. A conveyance of the surface ownership of real property shall be a conveyance of the pore space in all formations and strata below the surface of the real property unless the ownership interest in the pore space was previously severed from the surface ownership or is explicitly excluded in the conveyance.

D. The ownership of pore space in any formations or strata may be conveyed in the manner provided by law for the transfer of interests in real property. No agreement conveying minerals or other interests underlying the surface shall act to convey ownership of any pore space in the formation or stratum unless the agreement explicitly conveys that ownership interest.

E. No provision of law, including a lawfully adopted rule or regulation, requiring notice to be given to a surface owner, to an owner of a mineral interest or to both shall be construed to require notice to persons holding ownership interests in any pore space in the underlying formations or strata unless the law specifies that notice to the persons is required. ←Sf12