

1 HOUSE BILL 458

2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY

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5 and Nathan P. Small and Steve D. Lanier
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10 AN ACT

11 RELATING TO THE ENVIRONMENT; ENACTING THE GEOLOGIC CARBON
12 DIOXIDE STORAGE STEWARDSHIP ACT; PROVIDING RULEMAKING
13 AUTHORITY; CREATING A FUND; PERMITTING TRANSFER OF STEWARDSHIP
14 TO THE STATE; MAKING AN APPROPRIATION.
15

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

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

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Geologic Carbon Dioxide Storage Stewardship Act:

21 A. "carbon dioxide" means carbon dioxide produced
22 by anthropogenic sources or captured from the atmosphere,
23 including qualified carbon oxide as defined pursuant to
24 applicable federal law and carbon dioxide stream as may be
25 defined in federal law and regulations pertaining to class VI

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1 carbon dioxide injection wells;

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

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

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

14 E. "sequestration facility" means carbon dioxide
15 injection wells, monitoring wells and devices, science wells,
16 but excluding stratigraphic and similar wells for assessing the
17 nature of the subsurface, and other wells used for the
18 injection of carbon dioxide in subsurface geologic formations,
19 including the underground equipment, pipelines and surface
20 equipment and buildings used for the purpose of geologic
21 sequestration of carbon dioxide. "Sequestration facility"
22 includes a facility that injects carbon dioxide for secure
23 geologic sequestration pursuant to applicable federal laws,
24 including a geologic sequestration project as may be defined in
25 federal regulations pertaining to federal environmental

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1 protection agency class VI underground injection control wells
2 for carbon dioxide injection wells; and

3 F. "sequestration unit" means the geologic
4 formation or formations proposed for the injection of carbon
5 dioxide for geologic sequestration and the lands to be included
6 within the unit. "Sequestration unit" does not include oil and
7 gas units where carbon dioxide is injected for purposes of
8 enhancing oil and gas production.

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

11 A. The Geologic Carbon Dioxide Storage Stewardship
12 Act applies to sequestration facilities that commence injection
13 of carbon dioxide after the effective date of that act;
14 provided that sequestration facilities that commenced injection
15 of carbon dioxide before the effective date of that act may
16 apply to the division for a certificate of completion of
17 injection operations and for the transfer of the continuing
18 stewardship responsibilities to the state pursuant to
19 applicable statutes and rules and after payment of a fee
20 equivalent to the fee that the division would otherwise have
21 collected pursuant to Section 5 of that act.

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

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1 of that act.

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

9 SECTION 4. ~~[NEW MATERIAL]~~ CERTIFICATE OF CLOSURE FOR
10 GEOLOGIC SEQUESTRATION UNITS.--

11 A. An operator that has obtained a permit for
12 geologic carbon dioxide sequestration may ask for a certificate
13 of closure for that site; provided that the operator can
14 demonstrate that the storage has demonstrated long-term
15 security, monitoring of the site has not shown significant risk
16 of future leakage and the conditions as provided in Subsection
17 E of Section 6 of the Geologic Carbon Dioxide Storage
18 Stewardship Act are satisfied.

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

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

5 D. The division may grant to an operator a
6 certificate of closure after completion of injection activities
7 and satisfaction of the requirements of the Geologic Carbon
8 Dioxide Storage Stewardship Act, allowing for the transfer of
9 stewardship to the state.

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

12 A. The "geologic carbon dioxide long-term storage
13 stewardship fund" is created as a nonreverting fund in the
14 state treasury. The fund consists of fees collected from
15 operators at a rate of ten cents (\$.10) per metric ton of
16 carbon dioxide injected for storage pursuant to applicable
17 statutes and rules, distributions, appropriations, gifts,
18 grants and donations. All fees collected pursuant to this
19 section shall be transmitted to the state treasurer for credit
20 to the fund. All money in the fund is appropriated to the
21 division for the sole purpose of ensuring the long-term storage
22 security of geologic sequestration facilities. Disbursements
23 from the fund shall be made by warrant of the secretary of
24 finance and administration pursuant to vouchers signed by the
25 secretary of energy, minerals and natural resources.

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

4 (1) long-term monitoring of geologic
5 sequestration facilities and associated class VI injection
6 wells;

7 (2) remediation of mechanical problems
8 associated with geologic sequestration facilities and
9 associated carbon dioxide class VI injection wells;

10 (3) repairing mechanical leaks at geologic
11 sequestration facilities;

12 (4) plugging abandoned carbon dioxide class VI
13 injection wells used for geologic sequestration;

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

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

18 (7) compliance and enforcement activities
19 related to geologic sequestration facility operation and
20 associated class VI injection wells;

21 (8) oversight and management of geologic
22 sequestration facilities and associated class VI injection
23 wells after site closure; and

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

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

3 A. The division shall issue a certificate of
4 completion of injection operations upon a showing by the
5 operator of a sequestration facility and a division finding
6 that the requirements of Subsection E of this section have been
7 satisfied.

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

10 (1) all stewardship and legal responsibilities
11 for the sequestration facility, including the stored carbon
12 dioxide, shall transfer to the state;

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

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

22 (4) the state shall succeed and be subject to
23 the terms of all agreements, permits, rules, regulations and
24 orders applicable to the owner or operator and its successors,
25 and the sequestration facility and all monitoring, repair and

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1 remediation required by law shall become the state's
2 responsibility to be overseen by the division, unless and until
3 the federal government assumes responsibility for the long-term
4 monitoring and management of the sequestration unit and
5 sequestration facility.

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

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

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

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

23 (4) liability arises from the operator's
24 conduct associated with the sequestration facility or
25 sequestration unit that, if known, would have materially

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1 affected the division's decision in issuing the certification
2 of completion;

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

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

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

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

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

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