

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

AN ACT relating to geologic sequestration of carbon dioxide; clarifying ownership of carbon dioxide injected into geologic sequestration sites; specifying the transfer of title and liability of injected carbon dioxide; providing definitions; renumbering current statutes; making conforming amendments; specifying applicability; requiring rulemaking; and providing for effective dates.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 35-11-318 and 35-11-319 are created to read:

**35-11-318. Title to sequestered and injected carbon dioxide; definitions.**

(a) As used in this section and in W.S. 35-11-319, "injector" means a person applying for or holding a permit or certificate for geologic sequestration of carbon dioxide under W.S. 35-11-313.

(b) An injector shall:

(i) Have title to any carbon dioxide the injector injects into and stores underground or within a unit area;

(ii) Hold title for any injected or stored carbon dioxide until the department issues a certificate of project completion as specified in W.S. 35-11-319.

(c) During any time the injector holds title to carbon dioxide under this section, the injector shall be liable for any damage the injected or stored carbon dioxide may cause, including damage caused by carbon dioxide that

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

escapes or is released from where it is being stored underground.

**35-11-319. Certificate of project completion; release; transfer of title and custody.**

(a) After all carbon dioxide injections underground or into pore space are completed as provided by a permit issued under W.S. 35-11-313 and upon application by the injector holding title to the carbon dioxide under W.S. 35-11-318, the department may issue a certificate of project completion. The department shall only issue a certificate upon satisfaction of the conditions imposed under subsections (b), (c) and (d) of this section and after providing public notice of the application, an opportunity for public comment and a public hearing on the application.

(b) A certificate of project completion shall not be issued until at least twenty (20) years after carbon dioxide injections end.

(c) A certificate of project completion shall not be issued until the injector with title to the carbon dioxide establishes to the satisfaction of the department that:

(i) The injector is in full compliance with all laws governing the injection and storage of the carbon dioxide;

(ii) The injector has addressed any pending claims regarding the injection and storage of the carbon dioxide;

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

(iii) The underground place or pore space where the carbon dioxide was injected or stored is expected to no longer expand vertically or horizontally and poses no threat to human health, human safety, the environment or underground sources of drinking water;

(iv) The stored or injected carbon dioxide is unlikely to cross any underground or pore space boundary and is not expected to endanger any underground source of drinking water or otherwise endanger human health, human safety or the environment;

(v) All wells, equipment and facilities to be used in maintaining and managing the stored carbon dioxide are in good condition and will retain mechanical integrity;

(vi) The injector has plugged any injection wells and has completed all reclamation required by the department.

(d) Upon the issuance of a certificate of project completion under subsection (a) of this section:

(i) In exchange for assuming responsibility and liability for the stored carbon dioxide as provided in this section, title to the stored or injected carbon dioxide, and any facilities used to inject or store the carbon dioxide, without payment of any compensation, shall be transferred to the state;

(ii) Title acquired by the state includes all rights, and interests in, and all responsibilities associated with, the stored or injected carbon dioxide;

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

(iii) Primary responsibility and liability for the stored or injected carbon dioxide shall be transferred to the state, provided that liability to the state shall not result in the payment of any damages in excess of the balance of the Wyoming geologic sequestration special revenue account created by W.S. 35-11-320(a);

(iv) The injector and all persons who generated any injected or stored carbon dioxide shall be forever released from all regulatory requirements associated with the continued storage and maintenance of the injected carbon dioxide;

(v) Any bond or financial assurance submitted to the department under W.S. 35-11-313 through 35-11-317 shall be released;

(vi) The state, through the department, shall assume responsibility to manage and monitor the stored carbon dioxide until such time when the federal government assumes responsibility for the long-term monitoring and management of stored carbon dioxide.

**Section 2.** W.S. 30-5-104(d)(viii), 30-5-502(a), 34-1-153, 35-11-313(e), (f)(ii)(F), (vii) and by creating new subsections (n) and (o), 35-11-314(a) and (b)(intro) and 35-11-316(j) are amended to read:

**30-5-104. Oil and gas conservation commission; powers and duties; investigations; rules and regulations.**

(d) The commission has authority:

(viii) To issue orders allowing the unitization of pore space associated with geologic sequestration sites

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

pursuant to W.S. 35-11-314 through ~~35-11-317~~35-11-320 and adopt such rules and regulations as necessary to effectuate the purposes of W.S. 35-11-314;

**30-5-502. Certification of carbon dioxide incidentally stored during enhanced recovery operations.**

(a) If there is production of oil, gas or both from enhanced recovery operations under a commission order entered pursuant to W.S. 30-5-110 utilizing the injection of carbon dioxide, the commission upon voluntary application by the unit operator, and after review of the operator's plan for accounting for the incidentally stored carbon dioxide, may enter an order recognizing the incidental storage of carbon dioxide occurring through the enhanced recovery operation and certifying the quantity of carbon dioxide being stored. An application or certification under this section does not subject the enhanced recovery operation to the requirements of W.S. 35-11-313 through ~~35-11-318~~35-11-320 or require the operator to obtain a permit under those sections.

**34-1-153. Ownership of material injected into geologic sequestration sites; liability for holding interests related to a sequestration site or giving consent to allow geologic sequestration activities.**

(a) All carbon dioxide, and other substances injected incidental to the injection of carbon dioxide, injected into any geologic sequestration site for the purpose of geologic sequestration shall be presumed to be owned by the injector of such material subject to W.S. 35-11-318 and 35-11-319 and all rights, benefits, burdens and liabilities of such ownership shall belong to the injector. This presumption may be rebutted by a person claiming contrary

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

ownership by a preponderance of the evidence in an action to establish ownership.

(b) Except as provided in W.S. 35-11-318 and 35-11-319, no owner of pore space, other person holding any right to control pore space or other surface or subsurface interest holder, shall be liable for the effects of injecting carbon dioxide for geologic sequestration purposes, or for the effects of injecting other substances for the purpose of geologic sequestration which substances are injected incidental to the injection of carbon dioxide, solely by virtue of their interest or by their having given consent to the injection.

**35-11-313. Carbon sequestration; permit requirements.**

(e) Permit requirements for geologic sequestration of carbon dioxide shall be as defined by department rules. The injector of the carbon dioxide shall apply for any permit required under this section.

(f) The administrator of the water quality division of the department of environmental quality, after receiving public comment and after consultation with the state geologist, the Wyoming oil and gas conservation commission and the advisory board created under this act, shall recommend to the director rules, regulations and standards for:

(ii) Requirements for the content of applications for geologic sequestration permits. Such applications shall include:

(F) A site and facilities description, including a description of the proposed geologic

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

sequestration facilities and documentation sufficient to demonstrate that the applicant has all legal rights, including but not limited to the right to surface use, necessary to sequester carbon dioxide and associated constituents into the proposed geologic sequestration site. The department may issue a draft permit contingent on obtaining a unitization order pursuant to W.S. 35-11-314 through ~~35-11-317~~ 35-11-320;

(vii) Requirements for fees to be paid by all permittees of geologic sequestration sites and facilities, which may include a per ton injection fee or a closure fee, during the period of injection of carbon dioxide and associated constituents into subsurface geologic formations in Wyoming, which fees shall be deposited in the geologic sequestration special revenue account created by W.S. ~~35-11-318~~ 35-11-320 for use as provided therein.

(n) Upon issuing a permit, the department shall issue a certificate that includes a statement that the permit has been issued, a description of the area covered by the permit and any other information that the department deems appropriate. The injector shall file a copy of the certificate with the county clerk in the county or counties where the geologic sequestration site is located.

(o) The provisions of W.S. 35-11-318 and 35-11-319 shall apply to any certificate for sequestration of carbon dioxide under this section and to any unitization of geologic sequestration sites under W.S. 35-11-314 through 35-11-317.

**35-11-314. Unitization of geologic sequestration sites; purposes; definitions.**

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

(a) The purpose of W.S. 35-11-314 through ~~35-11-317~~ 35-11-319 is declared by the Wyoming legislature to be the protection of corresponding rights, compliance with environmental requirements and to facilitate the use and production of Wyoming energy resources.

(b) Except when context otherwise requires or when otherwise defined in this subsection, the terms used or defined in W.S. 35-11-103, shall have the same meaning when used in W.S. 35-11-314 through ~~35-11-317~~ 35-11-320. When used in W.S. 35-11-314 through ~~35-11-317~~ 35-11-320:

**35-11-316. Unitization of geologic sequestration sites; hearings on application, order; modifications.**

(j) No provision of W.S. 35-11-314 through ~~35-11-317~~ 35-11-319 shall be construed to confer on any person the right of eminent domain and no order for unitization issued under this section shall act so as to grant to any person the right of eminent domain.

**Section 3.** W.S. 35-11-318 is amended and renumbered as 35-11-320 to read:

~~35-11-318~~ 35-11-320. **Geologic sequestration special revenue account.**

(a) There is created the Wyoming geologic sequestration special revenue account. The account shall be administered by the director and all funds in the account shall be transmitted to the state treasurer for credit to the account and shall be invested by the state treasurer as authorized under W.S. 9-4-715(a), (d) and (e) in a manner to obtain the highest return possible consistent with the preservation of the corpus. Any

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

interest earned on the investment or deposit of monies into the fund shall remain in the fund and shall not be credited to the general fund. All funds in the account are continuously appropriated for use by the director consistent with this section.

(b) The account shall consist of all monies collected by the department to measure, monitor and verify Wyoming geologic sequestration sites following ~~site closure project completion~~ certification, release of all financial assurance instruments and termination of the permit. The department shall promulgate rules necessary to collect monies in an amount reasonably calculated to pay the costs of measuring, monitoring and verifying the sites.

(c) Funds in the account shall be used only for:

(i) The measurement—testing, monitoring and verification—long-term inspections of geologic sequestration sites;

(ii) Remediation of mechanical problems associated with remaining wells and infrastructure;

(iii) Plugging and abandoning monitoring wells;

(iv) All future claims associated with the release of carbon dioxide from the geologic sequestration sites following site—closure—project completion certification, release of all financial assurance instruments and termination of the permit.

(d) The existence, management and expenditure of funds from this account shall not constitute a waiver by the state of Wyoming of its immunity from suit, nor does it

ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

constitute an assumption of any liability by the state for geologic sequestration sites. ~~or the carbon dioxide and associated constituents injected into those sites.~~

**Section 4.** The provisions of this act shall apply to all holders of permits for geologic sequestration of carbon dioxide issued under W.S. 35-11-313 and to all orders of unitization of geologic sequestration sites under W.S. 35-11-314 through 35-11-317 before, on and after the effective date of this section.

**Section 5.**

(a) The department of environmental quality may take all actions necessary to implement the provisions of this act.

(b) The environmental quality council and the Wyoming oil and gas conservation commission shall promulgate all rules necessary to implement the provisions of this act.

(c) Not later than October 31, 2022, the department of environmental quality shall report to the joint minerals, business and economic development interim committee on the status of implementing this act, including whether further legislation is necessary to retain the state's primacy in regulating class VI injection wells and whether more time is necessary to implement this act in order to amend or retain any plan agreement for the state's regulation of class VI injection wells.

ORIGINAL SENATE  
FILE NO. SF0047

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ENROLLED ACT NO. 53, SENATE

SIXTY-SIXTH LEGISLATURE OF THE STATE OF WYOMING  
2022 BUDGET SESSION

**Section 6.**

(a) Except as provided in subsection (b) of this section, this act is effective July 1, 2023.

(b) Sections 5 and 6 of this act are effective immediately upon completion of all acts necessary for a bill to become law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the Senate.

\_\_\_\_\_  
Chief Clerk