

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 831 Session of 2023

INTRODUCED BY YAW, ROBINSON, STEFANO AND VOGEL, JUNE 20, 2023

AS AMENDED ON THIRD CONSIDERATION, MARCH 19, 2024

AN ACT

1 Providing for the injection of carbon dioxide into an
2 underground reservoir for the purpose of carbon
3 sequestration, for the ownership of pore space in strata
4 below surface lands and waters of the Commonwealth, for
5 conveyance of the surface ownership of real property;
6 imposing duties on the Department of Environmental
7 Protection; and establishing the Carbon Dioxide Storage
8 Facility Fund.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. Short title.

12 This act shall be known and may be cited as the Carbon
13 Capture and Sequestration Act.

14 Section 2. Findings and declarations.

15 The General Assembly finds and declares as follows:

16 (1) It is in the public interest to promote the geologic
17 storage of carbon dioxide.

18 (2) The capture and geologic storage of carbon dioxide
19 will benefit this Commonwealth and the global environment by
20 reducing greenhouse gas emissions and will help to ensure the
21 viability of the energy and power industries of this

1 Commonwealth, to the economic benefit of Pennsylvania and its
2 residents.

3 (3) Carbon dioxide is a potentially valuable commodity
4 and geologic storage may allow for its ready availability if
5 needed for commercial, industrial or other uses.

6 (4) The use of any subsurface stratum, formations,
7 cavities or voids, and any materials and fluids contained
8 therein, for geologic storage of carbon dioxide is a
9 reasonable and beneficial use.

10 Section 3. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Carbon dioxide injection well." A well that is used to
15 inject carbon dioxide into a reservoir for carbon sequestration
16 under a UIC Class VI permit.

17 "Carbon dioxide plume." The physical extent underground of
18 the injected carbon dioxide stream.

19 "Carbon sequestration." The underground storage of carbon
20 dioxide in a reservoir.

21 "Carbon sequestration project." A project that involves the
22 underground storage of carbon dioxide in a reservoir pursuant to
23 at least one UIC Class VI permit.

24 "Department." The Department of Environmental Protection of
25 the Commonwealth.

26 "Escrow." To place in trust with a third party to be held
27 segregated from other funds for the secured interest of the
28 department.

29 "Fund." The Carbon Dioxide Storage Facility Fund established
30 under section 10(a).

1 "Pore space." Subsurface strata, formations, cavities or
2 voids, whether natural or artificially created, that can be used
3 as a storage space for carbon dioxide or other media.

4 "Secretary." The Secretary of Environmental Protection of
5 the Commonwealth.

6 "Storage facility." The subsurface area consisting of the
7 extent of a carbon dioxide plume which is required to be
8 delineated on an approved UIC Class VI permit or an amendment to
9 a UIC Class VI permit of a storage operator.

10 "Storage operator." An individual, corporation or other
11 legal entity that operates a carbon sequestration project.

12 "Subsurface property interest owner." A property interest
13 owner identified by the records of the recorder of deeds for
14 each county containing a portion of the proposed storage
15 facility who holds a fee simple interest ~~or~~, other freehold <--
16 interest OR LEASEHOLD INTEREST in the subsurface of the <--
17 property, which may include minerals, including coal, or oil and
18 gas rights. The term does not include the owner of a right-of-
19 way, OR an easement ~~or a leasehold~~. <--

20 "Surface property interest owner." A property interest owner
21 identified by the records of the recorder of deeds for each
22 county containing a portion of the proposed storage facility who
23 holds a fee simple interest or other freehold interest in the
24 surface of the property, which may include minerals, including
25 coal, or oil and gas rights. The term does not include the owner
26 of a right-of-way, an easement or a leasehold.

27 "UIC Class VI permit." A permit issued under 40 CFR Pt. 144
28 (relating to underground injection control program) that allows
29 the operation of a carbon dioxide injection and storage well.

30 "Underground storage of carbon dioxide." The injection and

1 storage of carbon dioxide into underground strata and formations
2 under at least one UIC Class VI permit.

3 Section 4. Ownership of pore space.

4 (a) General rule.--The ownership of all pore space in all
5 strata below the surface lands and waters of the Commonwealth
6 shall be vested in the SURFACE PROPERTY INTEREST owner ~~of the~~ <--
7 ~~surface~~ above the pore space.

8 (b) Conveyance.--A conveyance of the surface ownership of
9 real property shall be a conveyance of the pore space in all
10 strata below the surface of the real property unless the
11 ownership interest in the pore space previously has been
12 expressly excepted and reserved, conveyed or otherwise severed
13 from the surface ownership. The ownership of pore space in
14 strata may be conveyed in the manner provided by law for the
15 transfer of real property interests. No agreement conveying
16 minerals, including coal, oil and gas, or other interests
17 underlying the surface shall act to convey pore space in the
18 stratum unless the agreement expressly includes conveyance of
19 the pore space.

20 (c) Construction.--

21 (1) No provision of law or regulation requiring notice
22 to be given to a surface PROPERTY INTEREST owner, SUBSURFACE <--
23 PROPERTY INTEREST owner ~~of the minerals, including coal, or~~ <--
24 ~~oil and gas interest~~ or both, shall be construed to require
25 notice to individuals holding ownership interest in pore
26 space in the underlying strata unless the applicable law
27 specifies notice to the individuals is required.

28 (2) Nothing in this section shall be construed to change
29 or alter the common law existing as of the effective date of
30 this paragraph with respect to the rights belonging to, or

1 the dominance of, the mineral, including coal, estate or oil
2 and gas estate. For the purpose of determining the priority
3 of subsurface uses between a ~~severed~~ mineral, including coal, <--
4 or oil and gas estate and pore space, the ~~severed~~ mineral, <--
5 including coal, or oil and gas estate is dominant, INCLUDING <--
6 THE SURFACE USE NECESSARY FOR THE SUBSURFACE DEVELOPMENT OF
7 THE MINERAL, INCLUDING COAL, OR OIL AND GAS ESTATE,
8 regardless of whether ownership of the pore space is vested
9 in the ~~several owners of the surface~~ SURFACE PROPERTY <--
10 INTEREST OWNER or is owned separately from the surface.

11 (3) Nothing in this section shall alter, amend, diminish
12 or invalidate rights to ~~the~~ AN EXISTING use of subsurface <--
13 pore space that were acquired by contract or lease prior to
14 the effective date of this paragraph, NOTWITHSTANDING THAT <--
15 THE CONTRACT OR LEASE WAS ENTERED INTO WITH A SUBSURFACE
16 PROPERTY INTEREST OWNER OR A PREDECESSOR TO THE SUBSURFACE
17 PROPERTY INTEREST OWNER.

18 (d) Transfer instruments.--

19 (1) Instruments that transfer the rights to pore space
20 under this section shall describe the scope of any right to
21 use the surface estate. The owner of a pore space right shall
22 have no right to use the surface estate beyond that set out
23 in a properly recorded instrument.

24 (2) After the effective date of this paragraph, a
25 transfer instrument shall include a specific description of
26 the location of the pore space being transferred. The
27 description may include a metes and bounds description of the
28 surface lying over the transferred pore space and
29 identification of the subsurface strata, formations or
30 reservoirs. In the event only a description of the surface is

1 used, the transfer shall be deemed to include pore space at
2 all depths underlying the described surface area unless
3 specifically excluded. The validity of pore space rights
4 under this paragraph shall not affect the respective
5 liabilities of a party and liabilities shall operate in the
6 same manner as if the pore space transfer were valid.

7 Section 5. Cotenants, ownership of pore space by multiple
8 cotenants and collective storage.

9 (a) General rule.--If a storage operator does not obtain the
10 consent of all persons that own the storage facility's pore
11 space to the construction and operation of a storage facility,
12 the secretary may require that the pore space owned by
13 nonconsenting owners be included in a storage facility and
14 subject to geologic storage. The following shall apply:

15 (1) The permit applicant and prospective storage
16 operator shall negotiate with the pore space owners and
17 acquire rights needed to access the pore space.

18 (2) If, after good-faith negotiation, the applicant or
19 storage operator cannot locate or cannot reach an agreement
20 with all necessary pore space owners but has secured written
21 consent or agreement from the owners of at least 60% of the
22 ownership interest in the pore space for the storage
23 facility, all of the pore space of said interests for which
24 an agreement has not been reached shall be declared to be
25 included within the proposed storage facility if the
26 secretary finds that the requirements of this section have
27 been met. For the purposes of this subsection, an unknown or
28 nonlocatable owner shall be deemed to have consented or
29 agreed to the use of the pore space, provided that the
30 storage operator has complied with the publication

1 requirements of this act.

2 (b) Collective storage.--

3 (1) The storage operator shall provide a list to the
4 secretary of all persons reasonably known to own an interest
5 in pore space proposed to be collectively used in an
6 application to the secretary for a collective storage order.
7 A collective storage order shall be made only after the
8 secretary provides notice to all pore space owners proposed
9 to be included within the order.

10 (2) The secretary shall set and collect a fee adequate
11 to pay expenses associated with the conduct of administrative
12 hearings for the collective storage of pore space.

13 (3) If the proposed collective storage order concerns
14 pore space with an unknown or nonlocatable owner, the storage
15 operator shall publish one notice in the newspaper of the
16 largest circulation in each county in which the pore space is
17 located. The notice shall appear no more than 30 days prior
18 to the initial application for the collective storage order.
19 The applicant shall file proof of notice with the division
20 concurrently with the application. The notice shall:

21 (i) State that an application for a collective
22 storage order has been filed with the department.

23 (ii) Describe the pore space proposed to be
24 collectively used.

25 (iii) In the case of an unknown pore space owner,
26 indicate the name of the last known owner.

27 (iv) In the case of a nonlocatable pore space owner,
28 identify the owner and the owner's last known address.

29 (v) State that a person claiming an interest in the
30 pore space proposed to be collectively used should notify

1 the secretary and the storage operator at the published
2 address within 20 days of the publication date.

3 (4) A collective storage order shall authorize the long-
4 term storage of carbon dioxide beneath the tract or portion.
5 The order shall also specify, where necessary, the location
6 of and how to access carbon injection wells, outbuildings,
7 roads and monitoring equipment. The collective storage order
8 shall identify the compensation to be paid to unknown,
9 nonlocatable and nonconsenting pore space owners and the
10 basis for FAIR MARKET valuation of the collective interest OF <--
11 THE PORE SPACE OWNERS.

12 (5) A certified copy of a collective storage order and a
13 survey of the storage field shall be recorded by the storage
14 operator in the office of the county clerk of the county in
15 which all or a portion of the collective tract is located.
16 The secretary shall provide a copy of the collective storage
17 order to those required to be notified. For purposes of this
18 section, an unknown or nonlocatable owner shall be deemed to
19 have received notice, provided that the storage operator has
20 complied with the publication requirements under this
21 subsection.

22 ~~(c) Seismic study.~~ <--

23 ~~(1) It is the policy of the Commonwealth to allow for~~
24 ~~the exploration for geologic storage.~~

25 ~~(2) If a storage operator is unable to reasonably~~
26 ~~negotiate with a surface owner for the right to conduct~~
27 ~~seismic study on lands owned by the surface owner, the~~
28 ~~secretary may issue an order for the entry onto the lands by~~
29 ~~the storage operator. In this instance, the storage operator~~
30 ~~shall pay the surface owner just and reasonable compensation~~

1 ~~as established by the secretary.~~

2 ~~(3) A seismic study shall be limited to geologic storage~~
3 ~~and shall remain confidential and proprietary. The storage~~
4 ~~operator shall defend, indemnify and hold harmless the~~
5 ~~property owner for all claims arising out of entry onto the~~
6 ~~property by the storage operator, its contractors and its~~
7 ~~agents.~~

8 SECTION 5.1. SEISMIC EXPLORATION. <--

9 (A) SEISMIC ACTIVITY REVIEW.--A STORAGE OPERATOR SHALL
10 PREPARE A SEISMIC ACTIVITY REVIEW IN ACCORDANCE WITH EXISTING
11 REQUIREMENTS FOR A UIC CLASS VI PERMIT.

12 (B) SEISMIC SURVEY OR ASSESSMENT.--PRIOR TO APPLICATION FOR
13 A UIC CLASS VI PERMIT DEVELOPED BY THE DEPARTMENT, A STORAGE
14 OPERATOR MAY CONDUCT A SEISMIC SURVEY OR ASSESSMENT ACROSS THE
15 VICINITY OF A POTENTIAL STORAGE FACILITY.

16 (C) ENTRY ONTO LANDS.--IF A STORAGE OPERATOR IS UNABLE TO
17 REASONABLY NEGOTIATE WITH A SURFACE OWNER FOR THE RIGHT TO
18 CONDUCT A SEISMIC SURVEY ON LANDS OWNED BY THE SURFACE OWNER,
19 THE SECRETARY MAY ISSUE AN ORDER FOR THE ENTRY ONTO THE LANDS BY
20 THE STORAGE OPERATOR. IN THIS INSTANCE, THE STORAGE OPERATOR
21 SHALL PAY THE SURFACE OWNER JUST AND REASONABLE COMPENSATION AS
22 ESTABLISHED BY THE SECRETARY.

23 (D) LIMITATIONS AND CLAIMS.--A SEISMIC SURVEY SHALL BE
24 LIMITED TO GEOLOGIC STORAGE AND SHALL REMAIN CONFIDENTIAL AND
25 PROPRIETARY. THE STORAGE OPERATOR SHALL DEFEND, INDEMNIFY AND
26 HOLD HARMLESS THE PROPERTY OWNER FOR ALL CLAIMS ARISING OUT OF
27 ENTRY ONTO THE PROPERTY BY THE STORAGE OPERATOR, ITS CONTRACTORS
28 AND ITS AGENTS.

29 Section 6. Authorization of projects.

30 (a) Carbon sequestration.--Carbon sequestration projects are

1 authorized in this Commonwealth for the purposes of:

2 (1) Injecting carbon dioxide into the pore space of an
3 underground storage facility through at least one carbon
4 dioxide injection well under a UIC Class VI permit.

5 (2) Employing the underground storage of carbon dioxide.

6 ~~(b) Conditions for authorization. To operate a carbon~~ <--

7 (B) CONDITIONS FOR AUTHORIZATION.-- <--

8 (1) TO OPERATE A CARBON sequestration project under this
9 section, a storage operator must obtain, AND MUST BE IN <--
10 COMPLIANCE WITH, a UIC Class VI permit and all other permits
11 as required by applicable statutes and regulations. UPON <--
12 SUBMISSION OF A UIC CLASS VI PERMIT APPLICATION, THE STORAGE
13 OPERATOR SHALL PROVIDE NOTICE OF APPLICATION TO THE SURFACE
14 PROPERTY INTEREST OWNERS AND SUBSURFACE PROPERTY INTEREST
15 OWNERS IN THE VICINITY OF THE STORAGE FACILITY.

16 (2) THE FOLLOWING APPLY TO SEISMIC MONITORING:

17 (I) A STORAGE OPERATOR SHALL DEPLOY PRIOR TO CARBON
18 SEQUESTRATION, AND PERIODICALLY OPERATE DURING CARBON
19 SEQUESTRATION, A SEISMICITY MONITORING SYSTEM TO
20 DETERMINE THE PRESENCE OR ABSENCE, MAGNITUDE AND THE
21 HYPOCENTER LOCATION TO THE BEST OF THE STORAGE OPERATOR'S
22 ABILITY OF SEISMIC ACTIVITY WITHIN THE VICINITY OF THE
23 STORAGE FACILITY AS MAY BE NECESSARY TO PERFORM AN ARRAY
24 AND A RISK ANALYSIS AND AS REQUIRED BY THE DEPARTMENT. A
25 STORAGE OPERATOR MAY APPLY TO THE DEPARTMENT FOR A WAIVER
26 OF THIS REQUIREMENT IF THE STORAGE OPERATOR PRESENTS A
27 GEOHAZARD ASSESSMENT AND HISTORICAL INJECTION DATA
28 DEMONSTRATING THAT INDUCED SEISMICITY DOES NOT POSE
29 SIGNIFICANT RISK.

30 (II) IF A STORAGE OPERATOR IS UNABLE TO REASONABLY

1 NEGOTIATE WITH A SURFACE PROPERTY INTEREST OWNER FOR THE
2 RIGHT TO CONDUCT SEISMIC MONITORING ON LANDS OWNED BY THE
3 SURFACE PROPERTY INTEREST OWNER, THE SECRETARY MAY ISSUE
4 AN ORDER FOR THE ENTRY ONTO THE LANDS BY THE STORAGE
5 OPERATOR. IN THIS INSTANCE, THE STORAGE OPERATOR SHALL
6 PAY THE SURFACE PROPERTY INTEREST OWNER JUST AND
7 REASONABLE COMPENSATION AS ESTABLISHED BY THE SECRETARY.

8 (III) THE STORAGE OPERATOR SHALL DEFEND, INDEMNIFY
9 AND HOLD HARMLESS THE SURFACE PROPERTY INTEREST OWNER AND
10 SUBSURFACE PROPERTY INTEREST OWNER FOR ALL CLAIMS ARISING
11 OUT OF ENTRY ONTO THE PROPERTY BY THE STORAGE OPERATOR,
12 ITS CONTRACTORS AND ITS AGENTS.

13 (IV) A STORAGE OPERATOR SHALL PROVIDE FOR THE
14 SUBMISSION TO THE DEPARTMENT OF ANY SEISMIC DATA ABOVE A
15 SEISMIC THRESHOLD OR FREQUENCY DETERMINED BY THE
16 DEPARTMENT IN A MANNER PROVIDED FOR BY THE DEPARTMENT.

17 (3) TO OPERATE A CARBON SEQUESTRATION PROJECT UNDER THIS
18 SECTION, A STORAGE OPERATOR SHALL DESIGN THE CARBON
19 SEQUESTRATION PROJECT TO ISOLATE ANY EXISTING OR FUTURE
20 PRODUCTION FROM THE MINERAL, INCLUDING OF THE COAL, OR OIL AND
21 GAS ESTATE, FROM THE CARBON DIOXIDE PLUME AND SHALL INDICATE
22 WHETHER THE STORAGE FACILITY CONTAINS COMMERCIALY VALUABLE
23 MINERAL, INCLUDING THE COAL, OR OIL AND GAS ESTATES, AND, IF IT
24 DOES, A PERMIT MAY BE ISSUED ONLY IF THE DEPARTMENT IS SATISFIED
25 THAT THE INTERESTS OF THE MINERAL, INCLUDING COAL, OR OIL AND
26 GAS ESTATE, WILL NOT BE ADVERSELY AFFECTED AND HAVE BEEN
27 ADDRESSED IN AN AGREEMENT ENTERED INTO BY THE STORAGE OPERATOR
28 AND THE SUBSURFACE PROPERTY INTEREST OWNERS.

29 Section 7. Ownership of material injected into storage
30 facilities and liability for holding interests

1 related to a storage facility or giving consent to
2 allow carbon sequestration activities.

3 (a) General rule.--All carbon dioxide, and other substances
4 injected incidental to the injection of carbon dioxide, injected
5 into a storage facility for the purpose of carbon sequestration
6 shall be presumed to be owned by the storage operator of the
7 material and all rights, benefits, burdens and liabilities of
8 the ownership shall belong to the storage operator. This
9 presumption may be rebutted by an individual claiming contrary
10 ownership by a preponderance of the evidence in an action to
11 establish ownership.

12 (b) Liability.--No owner of pore space, other individual
13 holding any right to control pore space or other surface
14 property interest owner or subsurface property interest owner,
15 shall be liable for the effects of injecting carbon dioxide for
16 carbon sequestration activities, or for the effects of injecting
17 other substances for the purpose of carbon sequestration which
18 substances are injected incidental to the injection of carbon
19 dioxide, solely by virtue of their interest in the pore space or
20 surface or subsurface rights.

21 Section 8. Liability of storage operator.

22 (a) General rule.--A claim for damages due to injection or
23 migration of carbon dioxide shall not be actionable against a
24 storage operator conducting carbon sequestration in accordance
25 with a valid UIC Class VI permit unless the claimant proves that
26 the injection or migration of carbon dioxide:

27 (1) is injurious to health, or an obstruction to the
28 free use of property so as essentially to interfere with the
29 comfortable enjoyment of life or property; or

30 (2) has caused ~~direct physical~~ injury to an individual, <--

1 animal or real or personal property.

2 (b) ~~Damages~~ REDRESS AND DAMAGES.-- <--

3 (1) A surface property interest owner or subsurface
4 property interest owner ~~may recover monetary damages due to~~ <--
5 ~~injection or migration of carbon dioxide only for~~
6 ~~the diminution in property value resulting from the injection~~
7 ~~and migration of carbon dioxide beyond the storage facility.~~

8 OR LESSEE WHO INCURS INJURY OR DAMAGE OR LOSS OF PROPERTY <--
9 VALUE AS A RESULT OF THE INJECTION OR MIGRATION OF CARBON
10 DIOXIDE DESCRIBED IN SUBSECTION (A) SHALL HAVE A RIGHT OF
11 ACTION AGAINST THE STORAGE OPERATOR FOR INJUNCTION, DAMAGES
12 OR OTHER APPROPRIATE CIVIL OR EQUITABLE RELIEF.

13 (2) A surface property interest owner ~~or~~, subsurface <--
14 property interest owner OR LESSEE may ~~not seek punitive~~ <--
15 ~~damages due to injection or migration of carbon dioxide if~~
16 ~~the storage operator acts in compliance with the requirements~~
17 ~~of the UIC Class VI permit.~~ SEEK RECOVERY FOR ANY OF THE <--
18 FOLLOWING:

19 (I) GENERAL AND SPECIAL DAMAGES, INCLUDING ACTUAL
20 DAMAGES, FOR THE DIMINUTION IN PROPERTY VALUE RESULTING
21 FROM THE INJECTION AND MIGRATION OF CARBON DIOXIDE BEYOND
22 THE STORAGE FACILITY.

23 (II) PUNITIVE DAMAGES.

24 (III) REASONABLE ATTORNEY FEES AND COSTS.

25 (IV) INJUNCTIVE AND OTHER EQUITABLE RELIEF.

26 (V) OTHER RELIEF WHICH THE COURT DEEMS NECESSARY AND
27 PROPER.

28 (3) A SURFACE PROPERTY INTEREST OWNER, SUBSURFACE
29 PROPERTY INTEREST OWNER OR LESSEE MAY NOT SEEK PUNITIVE
30 DAMAGES DUE TO INJECTION OR MIGRATION OF CARBON DIOXIDE IF

1 THE STORAGE OPERATOR IS DETERMINED TO HAVE HAD A REASONABLE
2 BASIS FOR BELIEVING THAT THE CARBON SEQUESTRATION PROJECT
3 WOULD NOT RESULT IN MIGRATION OF CARBON DIOXIDE BEYOND THE
4 STORAGE FACILITY.

5 Section 9. Operation and storage fees.

6 (a) Requirement.--Storage operators shall pay the department
7 a fee on each ton of carbon dioxide injected for storage.

8 (b) Amount.--The fee under this section shall be in an
9 amount set by the Environmental Quality Board. The following
10 apply:

11 (1) The fee shall be based on the department's
12 anticipated expenses associated with:

13 (i) Regulating storage facilities during their
14 construction, operation and preclosure phases.

15 (ii) Long-term monitoring and management of the
16 storage facility following issuance of the certificate of
17 project completion under section 11.

18 (2) The department shall transmit to the Legislative
19 Reference Bureau for publication in the next available issue
20 of the Pennsylvania Bulletin a schedule of fees under this
21 section.

22 (c) Segregation of funds.--Fees imposed by the department
23 under this section shall be segregated as follows:

24 (1) Fifty percent of fees imposed for the purpose of
25 covering the activities described in section 10(c)(1), (2)
26 and (3) shall be deposited to the credit of the fund, and 50%
27 of the fees shall be held in escrow by the storage operator
28 pursuant to rules promulgated by the department, provided
29 that rules permit investment of the escrowed funds.

30 (2) One hundred percent of the fees imposed for the

1 purpose of covering the activities described in section 10(c)
2 (4) shall be held in escrow by the storage operator pursuant
3 to rules promulgated by the Environmental Quality Board,
4 provided that rules permit investment of the escrowed funds.

5 (d) Penalties.--Penalties imposed for violations of this act
6 or regulations promulgated under this act and funds received by
7 the department from financial responsibility mechanisms shall be
8 remitted to the fund.

9 Section 10. Fund.

10 (a) Establishment.--The Carbon Dioxide Storage Facility Fund
11 is established as a separate fund within the State Treasury.

12 (b) Administration.--The department shall administer the
13 fund.

14 (c) Purpose.--The fund shall be used only for defraying the
15 department's expenses associated with:

16 (1) Processing permit applications.

17 (2) Regulating storage facilities during construction,
18 operational and preclosure phases.

19 (3) Making storage amount determinations.

20 (4) Long-term monitoring and management of a closed
21 storage facility.

22 (d) Interest.--Interest earned by the fund shall be
23 deposited into the fund.

24 (e) Transfer.--Money in the fund may not be transferred to
25 the General Fund or another fund.

26 (f) Deposit.--At the time a certificate of project
27 completion is issued by the department, the storage operator
28 shall deposit to the credit of the fund all money accumulated by
29 the storage operator in escrow under section 9(c), provided that
30 the total amount credited by the storage operator shall not

1 exceed the anticipated cost of oversight and management
2 following closure of the geologic storage facility and
3 associated carbon dioxide injection wells, as determined by the
4 department.

5 Section 11. Certificate of project completion.

6 (a) Issuance.--After all carbon dioxide injections
7 underground or into pore space are completed and upon
8 application by the storage operator, the department may issue a
9 certificate of project completion. The department shall issue a
10 certificate upon satisfaction of the conditions imposed under
11 this section and after providing public notice of the
12 application, an opportunity for public comment and a public
13 hearing on the application.

14 (b) Timing.--A certificate of project completion shall not
15 be issued until at least 10 years after carbon dioxide
16 injections end.

17 (c) Conditions.--A certificate of project completion shall
18 not be issued until the storage operator establishes with a
19 degree of certainty that satisfies the department that:

20 (1) The storage operator is in full compliance with all
21 laws governing the injection and storage of the carbon
22 dioxide.

23 (2) The storage operator has addressed pending claims
24 regarding the injection and storage of the carbon dioxide.

25 (3) The carbon dioxide that has been injected
26 underground for storage is not expected to expand vertically
27 or horizontally and poses no threat to human health, human
28 safety, the environment or underground sources of drinking
29 water.

30 (4) The carbon dioxide that has been injected

1 underground for storage is unlikely to cross any underground
2 or pore space boundary and is not expected to endanger any
3 underground source of drinking water or otherwise endanger
4 human health, human safety or the environment.

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

8 (6) The storage operator has plugged injection wells and
9 has completed all reclamation required by the department.

10 (d) After issuance.--Upon the issuance of a certificate of
11 project completion under this section:

12 (1) In exchange for assuming responsibility and
13 liability for the stored carbon dioxide as provided in this
14 section, title to the stored or injected carbon dioxide, and
15 any facilities used to inject or store the carbon dioxide,
16 without payment of compensation, shall be transferred to the
17 Commonwealth.

18 (2) Title acquired by the Commonwealth includes all
19 rights, and interests in, and all responsibilities associated
20 with, the stored or injected carbon dioxide, subject to
21 limitations provided within this subsection.

22 (3) Except in situations provided below, and except for
23 criminal and contractual liability, primary responsibility
24 and liability for the stored or injected carbon dioxide shall
25 be transferred to the Commonwealth:

26 (i) situations in which the operator violated a duty
27 imposed on the operator by Pennsylvania law or regulation
28 prior to approval of site closure and any applicable
29 statutes of limitation have not run;

30 (ii) situations in which the department determines,

1 after notice and hearing, that the operator provided
2 deficient or erroneous information that was material and
3 relied upon by the department to support approval of site
4 closure;

5 (iii) situations in which the department determines,
6 after notice and hearing, that there is carbon dioxide
7 migration for which the operator is responsible that
8 causes or threatens imminent and substantial endangerment
9 to an underground source of drinking water; or

10 (iv) the balance of the escrow or the fund is
11 insufficient to cover costs arising from storage
12 facilities and associated carbon dioxide injection wells
13 after site closure.

14 (4) The storage operator and all individuals who
15 generated, injected or stored carbon dioxide shall be forever
16 released from all regulatory requirements associated with the
17 continued storage and maintenance of the injected carbon
18 dioxide, except as provided in paragraph (3).

19 (5) A bond or financial assurance submitted to the
20 department shall be released.

21 (6) The department shall assume responsibility to manage
22 and monitor the stored carbon dioxide until a time when the
23 Federal Government assumes responsibility for the long-term
24 monitoring and management of stored carbon dioxide.

25 (e) Construction.--Nothing in this section shall be
26 construed as a waiver of sovereign immunity by the Commonwealth.
27 Section 12. Effective date.

28 This act shall take effect immediately.