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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2889 Session of  
2022

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INTRODUCED BY SNYDER, MATZIE, PISCIOTTANO, BIZZARRO, GUENST,  
T. DAVIS, KINKEAD, SANCHEZ, CIRESI AND MARSHALL,  
OCTOBER 24, 2022

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REFERRED TO COMMITTEE ON ENVIRONMENTAL RESOURCES AND ENERGY,  
OCTOBER 24, 2022

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AN ACT

1 Amending Title 58 (Oil and Gas) of the Pennsylvania Consolidated  
2 Statutes, providing for geologic sequestration and  
3 establishing the Geologic Sequestration Special Revenue  
4 Account.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Title 58 of the Pennsylvania Consolidated  
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 37

10 GEOLOGIC SEQUESTRATION

11 Sec.

12 3701. Scope of chapter.

13 3702. Definitions.

14 3703. Declaration of policy.

15 3704. Ownership of pore space underlying surfaces.

16 3705. Oil and gas activities at geologic sequestration sites.

17 3706. Carbon sequestration and permit requirements.

18 3707. Unitization of geologic sequestration sites.

1 3708. Geologic Sequestration Special Revenue Account.

2 3709. Certification of carbon dioxide incidentally stored  
3 during enhanced recovery operations.

4 § 3701. Scope of chapter.

5 This chapter relates to the regulation of geologic  
6 sequestration.

7 § 3702. Definitions.

8 The following words and phrases when used in this chapter  
9 shall have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Department." The Department of Environmental Protection of  
12 the Commonwealth.

13 "Geologic sequestration." The injection of carbon dioxide  
14 and associated constituents into subsurface geologic formations  
15 intended to prevent its release into the atmosphere.

16 "Geologic sequestration facilities." The surface equipment  
17 used for transport, storage and injection of carbon dioxide.

18 "Geologic sequestration site." The underground geologic  
19 formations where the carbon dioxide is intended to be stored.

20 "Pore space." Subsurface space which can be used as storage  
21 space for carbon dioxide or other substances.

22 "Secretary." The Secretary of Environmental Protection of  
23 the Commonwealth.

24 § 3703. Declaration of policy.

25 The General Assembly finds and declares as follows:

26 (1) The enactment of this chapter is an exercise of the  
27 authority of the Commonwealth to safeguard the vital  
28 interests of the residents of this Commonwealth.

29 (2) This chapter is intended to advance the significant  
30 and legitimate public purpose of ensuring clarity and legal

1 use of geologic sequestration sites.

2 § 3704. Ownership of pore space underlying surfaces.

3 (a) General rule.--Notwithstanding any other provision of  
4 law, the ownership of all pore space in all strata below the  
5 surface lands and waters of this Commonwealth is declared to be  
6 vested in the several owners of the surface above the strata.

7 (b) Conveyances.--A conveyance of the surface ownership of  
8 real property shall be a conveyance of the pore space in all  
9 strata below the surface of the real property unless the  
10 ownership interest in the pore space previously has been severed  
11 from the surface ownership or is explicitly excluded in the  
12 conveyance. The ownership of pore space in strata may be  
13 conveyed in the manner provided by law for the transfer of  
14 mineral interests in real property. No agreement conveying  
15 mineral or other interests underlying the surface shall act to  
16 convey ownership of any pore space in the stratum unless the  
17 agreement explicitly conveys that ownership interest.

18 (c) Notice not required.--No provision of law, including a  
19 lawfully adopted rule or regulation, requiring notice to be  
20 given to a surface owner, to an owner of the mineral interest,  
21 or to both, shall be construed to require notice to a person  
22 holding ownership interest in any pore space in the underlying  
23 strata unless the law specifies that notice to the person is  
24 required.

25 (d) Limitations.--Nothing in this section shall be construed  
26 to change or alter the common law as of the date of enactment of  
27 this section as it relates to the rights belonging to, or the  
28 dominance of, the mineral estate. For the purpose of determining  
29 the priority of subsurface uses between a severed mineral estate  
30 and pore space as defined in this section, the severed mineral

1 estate is dominant regardless of whether ownership of the pore  
2 space is vested in the several owners of the surface or is owned  
3 separately from the surface.

4 (e) Requirements.--All instruments which transfer the rights  
5 to pore space under this section shall describe the scope of any  
6 right to use the surface estate. The owner of any pore space  
7 right shall have no right to use the surface estate beyond that  
8 set out in a properly recorded instrument.

9 (f) Transfers.--Transfers of pore space rights made after  
10 the date of enactment of this section are null and void at the  
11 option of the owner of the surface estate if the transfer  
12 instrument does not contain a specific description of the  
13 location of the pore space being transferred. The description  
14 may include a subsurface geologic or seismic survey or a metes  
15 and bounds description of the surface lying over the transferred  
16 pore space. In the event a description of the surface is used,  
17 the transfer shall be deemed to include pore space at all depths  
18 underlying the described surface area unless specifically  
19 excluded. The validity of pore space rights under this  
20 subsection may not affect the respective liabilities of any  
21 party and the liabilities shall operate in the same manner as if  
22 the pore space transfer were valid.

23 (g) Acquired rights.--Nothing in this section shall alter,  
24 amend, diminish or invalidate rights to the use of subsurface  
25 pore space that were acquired by contract or lease prior to  
26 enactment of this section.

27 § 3705. Oil and gas activities at geologic sequestration sites.

28 Nothing in this chapter shall be deemed to affect the  
29 otherwise lawful right of a surface or mineral owner to drill or  
30 bore through a geologic sequestration site if done in accordance

1 with department rules for protecting the geologic sequestration  
2 site against the escape of carbon dioxide.

3 § 3706. Carbon sequestration and permit requirements.

4 (a) Prohibited.--The geologic sequestration of carbon  
5 dioxide is prohibited unless authorized by a permit issued by  
6 the department.

7 (b) Enhanced recovery.--The injection of carbon dioxide for  
8 purposes of a project for enhanced recovery of oil or other  
9 minerals approved by the department may not be subject to this  
10 chapter.

11 (c) Transfer.--If an oil and gas operator converts to  
12 geologic sequestration upon the cessation of oil and gas  
13 recovery operations, regulation of the geologic sequestration  
14 facility and the geologic sequestration site shall be  
15 transferred to the department. If the oil and gas operator does  
16 not convert to geologic sequestration, the wells shall be  
17 plugged and abandoned according to the rules of the department.

18 (d) Time limited permits.--Temporary time limited permits  
19 for pilot scale testing of technologies for geologic  
20 sequestration shall be issued by the department based upon  
21 current rules and regulations.

22 (e) Permit requirements.--Permit requirements for geologic  
23 sequestration of carbon dioxide shall be as defined by  
24 department rules.

25 (f) Regulations.--The secretary, after receiving public  
26 comment, shall promulgate regulations for each of the following:

27 (1) The creation of subclasses of wells within the  
28 existing Underground Injection Control Program administered  
29 by the United States Environmental Protection Agency under  
30 Part C of the Safe Drinking Water Act (Public Law 93-523, 21

1 U.S.C. § 349 and 42 U.S.C. §§ 201 and 300f et seq.) to  
2 protect human health and safety and the environment and allow  
3 for the permitting of the geologic sequestration of carbon  
4 dioxide.

5 (2) Requirements for the content of applications for  
6 geologic sequestration permits. Each application shall  
7 include all the following:

8 (i) A description of the general geology of the area  
9 to be affected by the injection of carbon dioxide,  
10 including geochemistry, structure and faulting,  
11 fracturing and seals, stratigraphy and lithology,  
12 including petrophysical attributes.

13 (ii) A characterization of the injection zone and  
14 aquifers above and below the injection zone which may be  
15 affected, including applicable pressure and fluid  
16 chemistry data to describe the projected effects of  
17 injection activities.

18 (iii) The identification of all other drill holes  
19 and operating wells that exist within and adjacent to the  
20 proposed sequestration site.

21 (iv) An assessment of the impact to fluid resources  
22 on subsurface structures and the surface of lands that  
23 may reasonably be expected to be impacted and the  
24 measures required to mitigate the impacts.

25 (v) Plans and procedures for environmental  
26 surveillance and excursion detection, prevention and  
27 control programs. For the purposes of this subparagraph,  
28 the term "excursion" shall mean the detection of  
29 migrating carbon dioxide at or beyond the boundary of the  
30 geologic sequestration site.

1           (vi) A site and facilities description, including a  
2 description of the proposed geologic sequestration  
3 facilities and documentation sufficient to demonstrate  
4 that the applicant has all legal rights, including the  
5 right to surface use, necessary to sequester carbon  
6 dioxide and associated constituents into the proposed  
7 geologic sequestration site. The department may issue a  
8 draft permit contingent on obtaining a unitization order  
9 under section 3707 (relating to unitization of geologic  
10 sequestration sites).

11           (vii) Proof that the proposed injection wells are  
12 designed, at a minimum, to the construction standards  
13 promulgated by the department.

14           (viii) A plan for periodic mechanical integrity  
15 testing of all wells.

16           (ix) A monitoring plan to assess the migration of  
17 the injected carbon dioxide and to ensure the retention  
18 of the carbon dioxide in the geologic sequestration site.

19           (x) Proof of bonding or financial assurance to  
20 ensure that geologic sequestration sites and facilities  
21 will be constructed, operated and closed in accordance  
22 with the purposes and provisions of this chapter and the  
23 rules and regulations promulgated under this act.

24           (xi) A detailed plan for postclosure monitoring,  
25 verification, maintenance and mitigation.

26           (xii) Proof of notice to surface owners, mineral  
27 claimants, mineral owners, lessees and other owners of  
28 record of subsurface interests as to the contents of the  
29 notice. Notice requirements shall, at a minimum, require  
30 all the following:

1           (A) The publishing of the notice of the  
2           application in a newspaper of general circulation in  
3           each county of the proposed operation at weekly  
4           intervals for four consecutive weeks.

5           (B) A copy of the notice shall also be mailed to  
6           each surface owner, mineral claimant, mineral owner,  
7           lessee and other owner of record of subsurface  
8           interests that is located within one mile of the  
9           proposed boundary of the geologic sequestration site.

10          (xiii) A certificate issued by an insurance company  
11          authorized to do business in the United States certifying  
12          that the applicant has a public liability insurance  
13          policy in force for the geologic sequestration operations  
14          for which the permit is sought, or evidence that the  
15          applicant has satisfied other Federal or State self-  
16          insurance requirements. The policy shall provide for  
17          personal injury and property damage protection in an  
18          amount and for a duration as established by regulations.

19          (xiv) Requirements for the operator to provide  
20          immediate verbal notice to the department of any  
21          excursion after the excursion is discovered, followed by  
22          written notice to all surface owners, mineral claimants,  
23          mineral owners, lessees and other owners of record of  
24          subsurface interests within 30 days of when the excursion  
25          is discovered.

26          (xv) Procedures for the termination or modification  
27          of any applicable Underground Injection Control permit  
28          issued under Part C of the Safe Drinking Water Act if an  
29          excursion cannot be controlled or mitigated.

30          (xvi) Any other conditions and requirements as



1 necessary to carry out this section.

2 (xvii) Requirements for bonding and financial  
3 assurance for geologic sequestration facilities and  
4 geologic sequestration sites, including:

5 (A) Procedures to establish the type and amount  
6 of the bond or financial assurance instrument to  
7 ensure that the operator faithfully performs all  
8 requirements of this chapter, complies with all rules  
9 and regulations and provides adequate financial  
10 resources to pay for mitigation or reclamation costs  
11 that the Commonwealth may incur as a result of a  
12 default by the permit holder. If any insurance  
13 instruments submitted for financial assurance  
14 purposes include the Commonwealth of Pennsylvania as  
15 an additional insured, the inclusion may not be  
16 deemed a waiver of sovereign immunity.

17 (B) Annual or other periodic reporting by the  
18 permittee during geologic sequestration and  
19 reclamation activities to allow the department to  
20 confirm or adjust the amount or type of the bond or  
21 other financial assurance requirements consistent  
22 with the site, facility and operation specific risks  
23 and conditions.

24 (C) Procedures to require proof of compliance  
25 from a permittee ordered by the department to adjust  
26 a bond or other financial assurance, including  
27 procedures for permit suspension or termination  
28 procedures following notice and an opportunity for a  
29 hearing if adequate bonding or financial assurance  
30 cannot be demonstrated.

1           (D) Procedures for replacement of a bond or  
2           financial assurance instrument if notice of  
3           cancellation is provided or notice that the license  
4           to do business in this Commonwealth of the surety or  
5           insurance company issuing a bond or other financial  
6           assurance under this chapter is suspended or revoked.

7           (E) Procedures for the department to forfeit the  
8           bond or to make a claim against an insurance  
9           instrument providing financial assurance, including  
10          the right of the attorney general to bring suit to  
11          recover costs if the bond or financial assurance is  
12          inadequate, to pay for closure, mitigation,  
13          reclamation, measurement, monitoring, verification  
14          and pollution control, where recovery is deemed  
15          possible.

16          (F) Procedures, including public notice and a  
17          public hearing if requested, for the release of bonds  
18          or the termination of insurance instruments no less  
19          than 10 years after the date when all wells excluding  
20          monitoring wells have been appropriately plugged and  
21          abandoned, all subsurface operations and activities  
22          have ceased and all surface equipment and  
23          improvements have been removed or appropriately  
24          abandoned, or so long thereafter as necessary to  
25          obtain a completion and release certificate from the  
26          department certifying that plume stabilization has  
27          been achieved without the use of control equipment  
28          based on a minimum of three consecutive years of  
29          monitoring data, and that the operator has completed  
30          site reclamation and all required monitoring and

1 remediation sufficient to show that the carbon  
2 dioxide injected into the geologic sequestration site  
3 will not harm or present a risk to human health and  
4 safety or the environment, including drinking water  
5 supplies, consistent with the purposes of this  
6 chapter and the rules and regulations adopted by the  
7 department.

8 (G) Requirements for the operator to record an  
9 affidavit in the office of the county clerk of the  
10 county or counties in which a geologic sequestration  
11 site is located, which affidavit shall be reasonably  
12 calculated to alert a person researching the title of  
13 a particular tract that such tract is underlain by a  
14 site permitted for geologic sequestration.

15 (xviii) Requirements for fees to be paid by all  
16 permittees of geologic sequestration sites and  
17 facilities, which may include a per ton injection fee or  
18 a closure fee, during the period of injection of carbon  
19 dioxide and associated constituents into subsurface  
20 geologic formations, which fees shall be deposited into  
21 the Geologic Sequestration Special Revenue Account  
22 established under section 3708 (relating to Geologic  
23 Sequestration Special Revenue Account).

24 (g) Fee.--At the time a permit application is filed, an  
25 applicant shall pay a fee to be determined by the director based  
26 upon the estimated costs of reviewing, evaluating, processing,  
27 serving notice of an application and holding any hearings. The  
28 fee shall be credited to a separate account and shall be used by  
29 the division as required to complete the tasks necessary to  
30 process, publish and reach a decision on the permit application.

1 Unused fees shall be returned to the applicant.

2 (h) Jurisdiction.--The department shall have jurisdiction  
3 over any subsequent extraction of sequestered carbon dioxide  
4 that is intended for commercial or industrial purposes.

5 (i) Liability limited.--Nothing in this section shall be  
6 construed to create any liability by the Commonwealth for  
7 failure to comply with this section.

8 § 3707. Unitization of geologic sequestration sites.

9 (a) Application.--An interested person may file an  
10 application with the department requesting an order providing  
11 for the operation and organization of a unit of one or more  
12 parts as a geologic sequestration site and for the pooling of  
13 interests in pore space in the proposed unit area for the  
14 purpose of conducting the unit operation. The application shall  
15 contain:

16 (1) A copy of a permit or draft permit issued by the  
17 department allowing geologic sequestration or an application  
18 for the permit.

19 (2) A description of the pore space and surface lands  
20 proposed to be operated under this section.

21 (3) The names, as disclosed by the conveyance records of  
22 the county or counties in which the proposed unit area is  
23 situated, and the publicly available land grant records of  
24 all of the following:

25 (i) Each person owning or having an interest in the  
26 surface estate and pore space in the unit area, including  
27 mortgages and the owners of other liens or encumbrances.

28 (ii) Each owner of the surface estate and pore space  
29 not included within but which immediately adjoins the  
30 proposed unit area or a corner of the surface estate.

1       (4) The addresses of all persons and owners identified  
2 in paragraph (3), if known. If the name or address of any  
3 person or owner is unknown, the application shall so  
4 indicate.

5       (5) A statement of the type of operations contemplated  
6 to comply with environmental requirements and to facilitate  
7 the use and production of Pennsylvania energy resources.

8       (6) A proposed plan of unitization applicable to the  
9 proposed unit area which the applicant considers fair,  
10 reasonable and equitable and which shall include provisions  
11 for determining the pore space to be used within the area,  
12 the appointment of a unit operator and the time when the plan  
13 is to become effective.

14       (7) A proposed plan for determining the quantity of pore  
15 space storage capacity to be assigned to each separately  
16 owned tract within the unit and the formula or method by  
17 which pore space will be allocated the economic benefits  
18 generated by use of pore space in the unit area.

19       (8) A proposed plan for generating economic benefits for  
20 the use of pore space within the unit area.

21       (9) A proposed operating plan providing the manner in  
22 which the unit area will be supervised and managed and, if  
23 applicable, costs allocated and paid, unless all owners  
24 within the proposed unit area have joined in executing an  
25 operating agreement or plan providing for such supervision,  
26 management and allocation and, if applicable, payment of  
27 costs. All operating plans shall comply with all applicable  
28 environmental requirements.

29       (b) Hearing.--Upon receipt of an application under this  
30 section, the department shall promptly set the matter for

1 hearing and, in addition to any notice otherwise required by law  
2 or the department's rules, shall require the applicant to give  
3 notice of the hearing, specifying the time and place of hearing,  
4 and describing briefly the purpose and the land and pore space  
5 affected, to be mailed by certified mail at least 30 days prior  
6 to the hearing to all persons whose names and addresses are  
7 required to be listed in the application.

8 (c) Determination.--After considering the application and  
9 hearing the evidence offered in connection with the hearing, the  
10 department shall issue an order finding and approving the  
11 proposed plan of unitization and proposed operating plan, if  
12 any, if the department finds all the following:

13 (1) The material allegations of the application are  
14 substantially true.

15 (2) The purposes specified in this section will be  
16 served by granting the application.

17 (3) The application outlines operations that will comply  
18 with environmental requirements.

19 (4) Granting the application will facilitate the use and  
20 production of Pennsylvania energy resources.

21 (5) The quantity of pore space storage capacity and the  
22 method used to determine the quantity of pore space storage  
23 capacity allocated to each separately owned tract within the  
24 unit area represents, so far as can be practically  
25 determined, each tract's actual share of the pore space to be  
26 used in the sequestration activity.

27 (6) The method by which the allocation of economic  
28 benefits generated from use of pore space within the unit  
29 area between different pore space owners and between pore  
30 space owners and the unit operator or others is fair and

1 reasonable, taking into consideration the costs required to  
2 capture, transport and sequester the carbon dioxide.

3 (7) The method of generating economic benefits from the  
4 use of pore space in the unit area is fair and equitable and  
5 is reasonably designed to maximize the value of the use.

6 (8) Other requirements specified by rules or regulations  
7 adopted by the department have been met.

8 (d) Authorization.--The following shall apply:

9 (1) No order of the department authorizing the  
10 commencement of unit operations shall become effective until  
11 the plan of unitization has been signed or in writing  
12 ratified or approved by those persons who own at least 80% of  
13 the pore space storage capacity within the unit area.

14 (2) If consent has not been obtained at the time the  
15 department's order is made, the department shall, upon  
16 application, hold supplemental hearings and make findings as  
17 may be required to determine if and when the consent will be  
18 obtained.

19 (3) The department shall require the applicant to give  
20 notice of a supplemental hearing by regular mail at least 30  
21 days prior to the hearing to each person owning interests in  
22 the pore space in the proposed unit area whose name and  
23 address was required to be listed in the application for the  
24 unit operations.

25 (4) If the required percentages of consent have not been  
26 obtained within a period of six months from the date on which  
27 the order of approval is made, the department shall revoke  
28 the order. The department may extend the time period for  
29 consent for good cause shown.

30 (5) An interested person may file an application with

1 the department requesting an order applicable only to the  
2 proposed unit area described in the application which shall  
3 provide for the percentage of approval or ratification to be  
4 reduced from 80% to 75%.

5 (6) The application shall contain the information  
6 required under this chapter for an application for permit and  
7 any order of the department issued for the application shall  
8 comply with subsection (b).

9 (7) Notice of the hearing on the application shall be  
10 given in the same manner and to the same persons as required  
11 by subsection (b).

12 (8) If the department finds that negotiations have been  
13 conducted for a period of at least nine months prior to the  
14 filing of the application, that the applicant has  
15 participated in the negotiations diligently and in good faith  
16 and that the percentage of approval or ratification required  
17 by this subsection cannot be obtained, the department may  
18 reduce the percentage of approval or ratification required by  
19 this section from 80% to 75%.

20 (9) The order shall affect only the unit area described  
21 in the application and shall operate only to approve the  
22 proposed plan of unitization and proposed operating plan and  
23 to reduce the required percentage of approval or ratification  
24 and may not change any other requirement contained in this  
25 section.

26 (e) Prohibition.--From the effective date of an order of the  
27 department issued under this section, the operation within the  
28 unit area defined in the order by a person other than the unit  
29 operator or persons acting under the unit operator's authority,  
30 except in the manner and to the extent provided in the plan of



1 unitization approved by the order, shall be prohibited.

2 (f) Amendments.--Unless otherwise provided in this section,  
3 an order issued by the department under this section may be  
4 amended in the same manner and subject to the same conditions as  
5 an original order or previous agreement in accordance with the  
6 following:

7 (1) No amendatory order may change:

8 (i) The assignments of pore space storage capacity  
9 between existing pore space owners in the unit area as  
10 established by the original order or previous agreement,  
11 except with the written consent of those persons who own  
12 at least 80% of the pore space storage capacity in the  
13 unit area.

14 (ii) Any allocation of costs as established by the  
15 original order or previous agreement, except with the  
16 written consent of those persons who own at least 80% of  
17 the unit pore space storage capacity.

18 (2) If consent has not been obtained at the time the  
19 department order is made, the department shall, upon  
20 application, hold supplemental hearings and make findings as  
21 may be required to determine if and when the consent will be  
22 obtained.

23 (3) The department shall require the applicant to give  
24 notice of a supplemental hearing by regular mail at least 30  
25 days prior to the hearing to each person owning interests in  
26 the unit area whose name and address was required by this  
27 section to be listed in the application for the unit  
28 operations.

29 (4) If the required percentages of consent have not been  
30 obtained within a period of six months from the date on which

1 the order of approval is made, the department shall revoke  
2 the order. The department may extend the time period for  
3 consent for good cause shown.

4 (5) An interested person may file an application with  
5 the department requesting an order applicable only to the  
6 unit area described in the application which shall provide  
7 for the percentage of approval or ratification to be reduced  
8 from 80% to 75%.

9 (6) The application shall contain all the information  
10 required by the department and shall comply with subsection  
11 (b).

12 (7) Notice of the hearing on the application shall be  
13 given in the same manner and to the same persons as required  
14 by subsection (a).

15 (8) If the department finds that negotiations were being  
16 conducted since July 1, 2019, or have been conducted for a  
17 period of at least nine months prior to the filing of the  
18 application, that the applicant has participated in the  
19 negotiations diligently and in good faith and that the  
20 percentage of approval or ratification required by this  
21 subsection cannot be obtained, the department may reduce any  
22 percentage of approval or ratification required by this  
23 section from 80% to 75%.

24 (9) The order shall affect only the unit area described  
25 in the application and operate only to reduce the required  
26 percentage of approval or ratification necessary for amending  
27 the assignment of pore space and may not change any other  
28 requirement contained in this section.

29 (g) Modification.--The department, upon its own motion or  
30 upon application, and with notice and hearing, may modify its

1 order regarding the operation, size or other characteristic of  
2 the unit area in order to prevent or assist in preventing a  
3 substantial inequity resulting from operation of the unit, if no  
4 modification may amend any permit issued under this chapter.

5 (h) Petition for inclusion.--The following apply:

6 (1) An owner of pore space within a geologic  
7 sequestration site who has not been included within a  
8 unitization application or order authorizing a unit under  
9 this section may petition for inclusion in the unit area.

10 (2) The petition shall be filed with the department and  
11 shall describe the petitioner's legal entitlement to the pore  
12 space, the location of the pore space, whether the pore space  
13 is included within any permitting area applicable to the unit  
14 area and the basis for inclusion in the unit area.

15 (3) The petition shall be accompanied by a deposit of  
16 money sufficient to pay all costs of the inclusion  
17 proceedings.

18 (4) The department shall require the petitioner to  
19 publish a notice of filing of the petition, which notice  
20 shall state the filing of the petition, the name of the  
21 petitioner, the location of the pore space and the prayer of  
22 the petitioner.

23 (5) The notice shall instruct all interested persons to  
24 appear at a specified time and place and to show cause, in  
25 writing, why the petition should not be granted.

26 (6) The department shall hear the petition and all  
27 objections at the time and place mentioned in the notice and  
28 shall grant or deny the petition.

29 (7) The filing of the petition shall be deemed and taken  
30 as an assent by each petitioner to the inclusion in the unit

1 of the pore space mentioned in the petition.

2 (8) If the petition is granted, the petitioner shall be  
3 considered to have been a member of the unit since its  
4 inception and, upon the payment of any costs paid by unit  
5 members, shall be entitled to all economic benefits received  
6 by unit members since the inception of the unit, provided  
7 that no unit modification affects any permit issued under  
8 this chapter.

9 (9) The department shall adopt rules providing for the  
10 fair and equitable determination of pore space storage  
11 capacity for each successful petitioner and the means by  
12 which successful petitioners shall be paid the economic  
13 benefits to which they are entitled under this subsection,  
14 including, if necessary, a reallocation of economic benefits  
15 among unit members.

16 (i) Certified orders.--A certified copy of any order of the  
17 department issued under this section shall be entitled to be  
18 recorded in the land records of the county clerk for the  
19 counties where all or any portion of the unit area is located,  
20 and the recordation shall constitute notice to all individuals.

21 (j) Eminent domain.--No provision of this chapter shall be  
22 construed to confer on any person the right of eminent domain  
23 and no order for unitization issued under this section shall act  
24 so as to grant to any person the right of eminent domain.

25 (k) Granting rights.--No order for unitization issued under  
26 this section shall act so as to grant any person a right of use  
27 or access to a surface estate if that person would not otherwise  
28 have the right.

29 (l) Termination.--No order of the department or other  
30 contract relating to a separately owned tract within the unit

1 area shall be terminated by the order providing for unit  
2 operations but shall remain in force and apply to that tract and  
3 its benefits, burdens and obligations until terminated in  
4 accordance with the provisions thereof.

5 (m) Limited effect.--Except to the extent that the parties  
6 affected agree, no order providing for unit operations shall be  
7 construed to result in a transfer of all or any part of the  
8 title to pore space or other rights in any tract in the unit  
9 area, and no agreement or order shall operate to violate the  
10 terms and requirements of any permit applicable to pore space  
11 within the unit area.

12 § 3708. Geologic Sequestration Special Revenue Account.

13 (a) Establishment.--The Geologic Sequestration Special  
14 Revenue Account is established within the State Treasury. The  
15 account shall be administered by the department, and all money  
16 in the account shall be transmitted to the State Treasurer for  
17 credit to the account. Any interest earned on the investment or  
18 deposit of money into the account shall remain in the account  
19 and may not be credited to the General Fund. All money in the  
20 account are continuously appropriated for use by the department  
21 consistent with this section.

22 (b) Funding.--The account shall consist of all money  
23 collected by the department to measure, monitor and verify  
24 geologic sequestration sites following site closure  
25 certification, release of all financial assurance instruments  
26 and termination of the permit. The department shall promulgate  
27 rules necessary to collect money in an amount reasonably  
28 calculated to pay the costs of measuring, monitoring and  
29 verifying the sites.

30 (c) Restrictions.--Money in the account shall be used only

1 for the measurement, monitoring and verification of geologic  
2 sequestration sites following site closure certification,  
3 release of all financial assurance instruments and termination  
4 of the permit.

5 (d) Liability.--The existence, management and expenditure of  
6 money from this account may not constitute a waiver by the  
7 Commonwealth of its immunity from legal liability and does not  
8 constitute an assumption of any liability for geologic  
9 sequestration sites or the carbon dioxide and associated  
10 constituents injected into those sites.

11 § 3709. Certification of carbon dioxide incidentally stored  
12 during enhanced recovery operations.

13 (a) Incidental storage.--If there is production of oil, gas  
14 or both from enhanced recovery operations utilizing the  
15 injection of carbon dioxide, the department upon voluntary  
16 application by the unit operator, and after review of the  
17 operators plan for accounting for the incidentally stored carbon  
18 dioxide, may issue an order recognizing the incidental storage  
19 of carbon dioxide occurring through the enhanced recovery  
20 operation and certifying the quantity of carbon dioxide being  
21 stored.

22 (b) Rules.--Prior to the department issuing an order under  
23 subsection (a), the department shall promulgate rules  
24 establishing standards and procedures for the certification of  
25 incidental storage of carbon dioxide and the certification of  
26 quantities of carbon dioxide incidentally stored.

27 Section 2. This act shall take effect in 60 days.