

HOUSE BILL NO. HB0090

Carbon capture and sequestration.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to carbon sequestration; providing for
 2 regulation by the department of environmental quality of
 3 the injection of carbon dioxide and associated
 4 constituents; providing for an appropriation; and providing
 5 for an effective date.

6

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

8

9 **Section 1.** W.S. 30-5-501 and 35-11-313 are created to
 10 read:

11

12

ARTICLE 5

13

GEOLOGIC SEQUESTRATION ACTIVITIES

14

15 **30-5-501. Oil and gas activities at geologic**
 16 **sequestration sites.**

17

1 Nothing in W.S. 35-11-313 shall be deemed to affect the
2 otherwise lawful right of a surface or mineral owner to
3 drill or bore through a geologic sequestration site as
4 defined by W.S. 35-11-103(c)(xxi), if done in accordance
5 with the commission rules for protecting the geologic
6 sequestration site against the escape of carbon dioxide.

7

8 **35-11-313. Carbon sequestration; permit requirements.**

9

10 (a) The geologic sequestration of carbon dioxide is
11 prohibited unless authorized by a permit issued by the
12 department.

13

14 (b) The injection of carbon dioxide for purposes of a
15 project for enhanced recovery of oil or other minerals
16 approved by the Wyoming oil and gas conservation commission
17 shall not be subject to the provisions of this chapter.

18

19 (c) If an oil and gas operator converts to geologic
20 sequestration upon the cessation of oil and gas recovery
21 operations, then regulation of the geologic sequestration
22 facility and the geologic sequestration site shall be
23 transferred to the department. If the oil and gas operator
24 does not convert to geologic sequestration, the wells shall

1 be plugged and abandoned according to the rules of the
2 Wyoming oil and gas conservation commission.

3

4 (d) Temporary time limited permits for pilot scale
5 testing of technologies for geologic sequestration shall be
6 issued by the department based upon current rules and
7 regulations.

8

9 (e) Permit requirements for geologic sequestration of
10 carbon dioxide shall be as defined by department rules.

11

12 (f) The administrator of the water quality division
13 of the department of environmental quality, after receiving
14 public comment and after consultation with the state
15 geologist and the advisory board created under this act,
16 shall recommend to the director rules, regulations and
17 standards for:

18

19 (i) The creation of subclasses of wells within
20 the existing Underground Injection Control (UIC) program
21 administered by the United States Environmental Protection
22 Agency under Part C of the Safe Drinking Water Act to
23 protect human health, safety and the environment and allow

1 for the permitting of the geologic sequestration of carbon
2 dioxide;

3

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

7

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

13

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

19

20 (C) The identification of all other drill
21 holes and operating wells that exist within and adjacent to
22 the proposed sequestration site;

23

1 (D) An assessment of the impact to fluid
2 resources, on subsurface structures and the surface of
3 lands that may reasonably be expected to be impacted and
4 the measures required to mitigate such impacts;

5

6 (E) Plans and procedures for environmental
7 surveillance and excursion detection, prevention and
8 control programs. For purposes of this section, "excursion"
9 shall mean the detection of migrating carbon dioxide at or
10 beyond the boundary of the geologic sequestration site;

11

12 (F) A site and facilities description,
13 including a description of the proposed geologic
14 sequestration facilities and documentation sufficient to
15 demonstrate that the applicant has the legal right to
16 sequester carbon dioxide and associated constituents into
17 the proposed geologic sequestration site;

18

19 (G) Proof that the proposed injection wells
20 are designed at a minimum to the construction standards set
21 forth by the department and the Wyoming oil and gas
22 conservation commission;

23

1 (H) A plan for periodic mechanical
2 integrity testing of all wells;

3

4 (J) A monitoring plan to assess the
5 migration of the injected carbon dioxide and to insure the
6 retention of the carbon dioxide in the geologic
7 sequestration site;

8

9 (K) Proof of bonding and financial
10 assurance to ensure that geologic sequestration sites and
11 facilities will be constructed, operated and closed in
12 accordance with the purposes and provisions of this act and
13 the rules and regulations promulgated pursuant to this act;

14

15 (M) A detailed plan for post-closure
16 monitoring, verification, maintenance and mitigation;

17

18 (N) Proof of notice to surface owners,
19 mineral owners and other owners of record of subsurface
20 interests as to the contents of such notice. Notice
21 requirements shall at a minimum require:

22

23 (I) The publishing of notice of the
24 application in a newspaper of general circulation in each

1 county of the proposed operation at weekly intervals for
2 four (4) consecutive weeks;

3

4 (II) A copy of the notice shall also
5 be mailed to all surface owners, mineral owners and lessees
6 of record located within one (1) mile of the proposed
7 boundary of the geologic sequestration site and the owners
8 of record of other subsurface interests.

9

10 (iii) Requirements for the operator to provide
11 immediate verbal notice to the department of any excursion
12 after the excursion is discovered, followed by written
13 notice to all surface owners, mineral owners and owners of
14 record of subsurface interests within thirty (30) days of
15 when the excursion is discovered;

16

17 (iv) Procedures for the termination or
18 modification of any applicable Underground Injection
19 Control (UIC) permit issued under Part C of the Safe
20 Drinking Water Act if an excursion cannot be controlled or
21 mitigated;

22

23 (v) Such other conditions and requirements as
24 necessary to carry out this section.

1

2 (g) As soon as practical the state oil and gas
3 supervisor, the state geologist and the director shall
4 convene a working group for the purpose of developing an
5 appropriate bonding procedure and to assure that adequate
6 financial resources are provided to pay for any mitigation
7 or reclamation costs that the state may incur as a result
8 of default by the permit holder. The bond shall be
9 required during the operating life of the sequestration
10 project and throughout the post-closure care period in
11 order to abate or remedy any violation of a permit,
12 standard or rule established under the provisions of this
13 act. The working group shall recommend to the joint
14 minerals, business and economic development and joint
15 judiciary interim committees, on or before September 30,
16 2009, the duration of the post-closure care period. At a
17 minimum, the bond shall provide assurance for closure and
18 reclamation costs, post-closure inspection and maintenance
19 costs and environmental monitoring, verification and
20 control costs.

21

22 (h) At the time a permit application is filed, an
23 applicant shall pay a fee to be determined by the director
24 based upon the estimated costs of reviewing, evaluating,

1 processing, serving notice of an application and holding
2 any hearings. The fee shall be credited to a separate
3 account and shall be used by the division as required to
4 complete the tasks necessary to process, publish and reach
5 a decision on the permit application. Unused fees shall be
6 returned to the applicant.

7

8 (j) The director shall recommend to the council any
9 changes that may be required to provide consistency and
10 equivalency between the rules or regulations promulgated
11 under this section and any promulgated for the regulation
12 of carbon dioxide sequestration by the United States
13 environmental protection agency.

14

15 (k) The Wyoming oil and gas conservation commission
16 shall have jurisdiction over any subsequent extraction of
17 sequestered carbon dioxide that is intended for commercial
18 or industrial purposes.

19

20 (m) Nothing in this section shall be construed to
21 create any liability by the state for failure to comply
22 with this section.

23

1 **Section 2.** W.S. 35-11-103(c) by creating new
2 subparagraphs (xx) through (xxii) is amended to read:

3
4 **35-11-103. Definitions.**

5
6 (c) Specific definitions applying to water quality:

7
8 (xx) "Geologic sequestration" means the
9 injection of carbon dioxide and associated constituents
10 into subsurface geologic formations intended to prevent its
11 release into the atmosphere;

12
13 (xxi) "Geologic sequestration site" means the
14 underground geologic formations where the carbon dioxide is
15 intended to be stored;

16
17 (xxii) "Geologic sequestration facilities" means
18 the surface equipment used for transport, storage and
19 injection of carbon dioxide.

20
21 **Section 3.** There is appropriated two hundred fifty
22 thousand dollars (\$250,000.00) from the general fund to the
23 department of environmental quality for use by the working
24 group created by W.S. 35-11-313(g) for expenses related to

1 performing the tasks assigned it pursuant to this act.
2 This appropriation shall be for the period beginning with
3 the effective date of this act and ending June 30, 2010.
4 Notwithstanding any other provision of law, this
5 appropriation shall not be transferred or expended for any
6 other purpose and any unexpended, unobligated funds
7 remaining from this appropriation shall revert as provided
8 by law on June 30, 2010. This appropriation shall not be
9 included in the department's standard biennial budget
10 request.

11

12 **Section 4.** Nothing in this act is intended to impede
13 or impair the ability of an oil and gas operator to inject
14 carbon dioxide through an approved enhanced oil or gas
15 recovery project and establish, verify, register and sell
16 emission reduction credits associated with the project.

17

18 **Section 5.** The department of environmental quality
19 and the oil and gas conservation commission shall submit a
20 joint written report, on or before November 1 of each year,
21 to the joint minerals, business and economic development
22 and joint judiciary interim committees as to all aspects of
23 compliance with this legislation including, but not limited
24 to, the promulgation of rules and regulations, the

1 formation of the working group, permitting and changes to
2 pertinent federal regulations affecting the same.

3

4 **Section 6.** This act is effective July 1, 2008.

5

6

(END)