

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Committee Substitute

for

Senate Bill 899

BY SENATORS ROSE, SMITH (MR. PRESIDENT), AZINGER,

HART, MARTIN, THORNE, AND WILLIS

[Reported March 24, 2025, from the Committee on

Energy, Industry, and Mining]

1 A BILL to amend and reenact §22-11B-4 of the Code of West Virginia, 1931, as amended, relating
2 to protecting coal and oil and gas minerals from carbon capture practices.

Be it enacted by the Legislature of West Virginia:

**ARTICLE 11B. UNDERGROUND CARBON DIOXIDE SEQUESTRATION AND
STORAGE.**

**§22-11B-4. Permit application requirements and contents; application fee, required
findings, and rulemaking.**

1 (a) Every permit application filed under this article shall be on a form as may be prescribed
2 by the secretary, shall be verified, and shall contain all information specified by legislative rule.

3 (b) Upon filing an application for a permit, an applicant shall:

4 (1) Pay a fee in an amount set by the secretary. The amount of the fee shall be set by rule
5 and shall be based on the secretary's anticipated cost of processing applications for permits,
6 orders, or determinations under this article. The fee shall be deposited in the Carbon Dioxide
7 Storage Facility Administrative Fund; and

8 (2) Pay to the secretary the costs the secretary incurs in publishing notices of applications
9 and notices for hearings on applications submitted under this article.

10 (c) Before a permit application may be approved, the secretary shall ~~determine whether~~
11 ~~the proposed storage facility contains commercially valuable minerals and, if it does, a permit may~~
12 ~~be issued only if the secretary is satisfied that the interests of the mineral owners or mineral~~
13 ~~lessees will not be adversely affected or have been addressed in an written agreement entered~~
14 ~~into by the mineral owners, mineral lessees, and the storage operator~~ require that a storage
15 operator design a carbon sequestration project to isolate any existing or future production from
16 the commercially valuable mineral, including the coal or oil and gas estate, from the carbon
17 dioxide plume.

18 (1) The carbon sequestration project permit application shall indicate whether the storage
19 facility contains any commercially valuable mineral, including any coal or oil and gas estate. If it
20 does, a permit may be issued only if the department is satisfied that the interests of the mineral
21 owners and mineral lessees to the commercially valuable mineral estate will not be adversely
22 affected.

23 (2) The application shall include evidence that the storage operator has provided notice of
24 the proposed carbon sequestration project to the mineral owners, mineral lessees, and operators
25 of any commercially valuable mineral within and contiguous to the project. The notice shall be in
26 writing, include information regarding the application, boundaries, and horizons for the project,
27 and include a copy of the notice of the hearing.

28 (3) The mineral owners, mineral lessees, and operators of a commercially valuable
29 mineral may submit an objection to the department regarding the design of a carbon sequestration
30 project based on the potential adverse effect to the commercially valuable mineral. The storage
31 operator shall address the objection to the department's satisfaction before proceeding with the
32 application process.

33 (d) ~~No permit shall~~ A permit may not be issued under this article unless the secretary finds
34 that:

35 (1) ~~That~~—The application and the proposed operations comply with all requirements
36 established by the secretary, including any applicable underground injection rules, and with all
37 applicable provisions of state and federal law;

38 (2) ~~That~~—The storage facility is suitable and feasible for carbon dioxide injection and
39 sequestration;

40 (3) ~~That~~—The storage operator has made a good-faith effort to obtain the consent of all
41 persons who own the storage reservoir's pore space;

42 (4) ~~That~~ The storage operator has obtained the written consent of persons who own at
43 least 75 percent of the storage reservoir's pore space and have at least begun the process to
44 obtain the remaining interests through the commission;

45 (5) ~~That~~ The proposed storage facility will not adversely affect surface waters or formations
46 containing fresh water;

47 (6) ~~That~~ The storage facility will not unduly endanger human health or the environment;

48 (7) ~~That~~ Adequate horizontal and vertical boundaries of the storage reservoir are defined,
49 including buffer areas, to ensure that the storage facility is operated safely and prudently;

50 (8) ~~That~~ The storage operator will establish monitoring facilities and protocols to assess
51 the location and migration of carbon dioxide injected for storage and to ensure compliance with
52 all permit, statutory, and administrative requirements;

53 (9) ~~That~~ All nonconsenting pore space owners are or will be justly and reasonably
54 compensated in accordance with the rules and procedures set forth in or promulgated under this
55 article by the secretary and the commission; and

56 (10) ~~That~~ The storage facility is in the public interest.

57 (e) To the extent not inconsistent with state and federal regulations, the secretary shall
58 render a decision on a permit application within one year after submission of a complete
59 application.

60 (f) The secretary shall propose rules for legislative approval, pursuant to the provisions of
61 §29A-3-1 *et seq.* of this code, detailing additional requirements for inclusion in a permit
62 application, such as:

63 (1) Site characterization requirements;

64 (2) Injection well construction requirements for materials that are compatible with and can
65 withstand contact with carbon dioxide over the life of a carbon dioxide sequestration project;

66 (3) Well operation requirements;

67 (4) Comprehensive monitoring requirements that address all aspects of well integrity,
68 carbon dioxide injection, and storage, as well as air and ground water quality during the injection
69 operation and the post-injection site care period;

70 (5) Financial responsibility requirements assuring the availability of funds for the life of a
71 carbon dioxide sequestration project, including post-injection site care and emergency response;
72 and

73 (6) Reporting and record-keeping requirements that provide project-specific information to
74 continually evaluate the site operations and confirm environmental protection.