

WEST VIRGINIA LEGISLATURE

2026 REGULAR SESSION

Engrossed
Committee Substitute
for
Senate Bill 15

BY SENATORS ROSE AND PHILLIPS

[Reported January 20, 2026, 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 the applicant
15 design a carbon sequestration or storage facility to isolate the nearby commercially valuable
16 mineral, including the coal or oil and gas estate and oil and gas storage operations, from the
17 facility's carbon dioxide plume and to ensure existing or future development or storage of such
18 commercially valuable mineral will not be adversely affected.

19 (1) The carbon sequestration or storage facility permit application shall indicate whether
20 the area within the proposed boundaries of the storage facility and the contiguous area to the
21 proposed boundaries of the storage facility, including the other subsurface horizons above and
22 below the storage facility, contains any commercially valuable mineral, including any coal or oil
23 and gas estate or oil and gas storage field. If it does, a permit may be issued only if the department
24 is satisfied that the interests of the mineral owners, mineral lessees, and storage operators of the
25 commercially valuable mineral estate will not be adversely affected.

26 (2) The application shall include evidence that the applicant has provided notice of the
27 proposed carbon sequestration or storage facility to the other pore space owners and pore space
28 lessees within the storage facility, and to the mineral owners, mineral lessees, and operators of
29 any commercially valuable mineral, including storage operators of any oil and gas, within any
30 strata within the storage facility's proposed boundaries and contiguous to the boundaries of the
31 storage facility. The notice shall be in writing, include information regarding the application,
32 boundaries, and storage horizons for the facility, and include a copy of the notice of the hearing.

33 (3) The pore space owners and lessees, if not the applicant, mineral owners, mineral
34 lessees, and operators of a commercially valuable mineral, including storage operators of any oil
35 and gas, may submit an objection to the department regarding the design of a carbon
36 sequestration or storage facility based on the potential adverse effect to the commercially valuable
37 mineral. The applicant shall address the objection to the department's satisfaction before
38 proceeding with the application process.

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

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

44 (2) ~~That~~ The storage facility is suitable and feasible for carbon dioxide injection and
45 sequestration;

46 (3) ~~That the storage operator~~ The applicant has made a good-faith effort to obtain the
47 consent of all persons who own or lease the storage reservoir's pore space and

48 ~~(4) That The storage operator~~ has obtained the written consent of persons who own at
49 least 75 percent of the storage reservoir's pore space;

50 (4) The applicant has attempted in good faith and have at least begun the process to
51 obtain the remaining nonconsenting interests through the commission;

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

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

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

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

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

63 (10) ~~That~~ The storage facility is in the public interest; and

64 (11) Adequate notice has been provided to the pore space owners and lessees, if not the
65 applicant, mineral owners, mineral lessees, and operators of any commercially valuable mineral,
66 including storage operators of any oil and gas, within the proposed boundaries of the storage
67 facility and the contiguous area to the proposed boundaries of the storage facility, including the
68 other subsurface horizons above and below the storage facility.

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

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

(1) Site characterization requirements;

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

(3) Well operation requirements;

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

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

(6) Reporting and recordkeeping requirements that provide ~~project-specific~~ facility-specific information to continually evaluate the site operations and confirm environmental protection.