

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, APRIL 8, 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, 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.

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 above the
7 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 or both, shall be construed to
24 require notice to individuals holding ownership interest in
25 pore space in the underlying strata unless the applicable law
26 specifies notice to the individuals is required.

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

1 and gas estate. For the purpose of determining the priority
2 of subsurface uses between a mineral, including coal, or oil
3 and gas estate and pore space, the mineral, including coal,
4 or oil and gas estate is dominant, including the surface use
5 necessary for the subsurface development of the mineral,
6 including coal, or oil and gas estate, regardless of whether
7 ownership of the pore space is vested in the surface property
8 interest owner or is owned separately from the surface.

9 (3) Nothing in this section shall alter, amend, diminish
10 or invalidate rights to an existing use of subsurface pore
11 space that were acquired by contract or lease prior to the
12 effective date of this paragraph, notwithstanding that the
13 contract or lease was entered into with a subsurface property
14 interest owner or a predecessor to the subsurface property
15 interest owner.

16 (d) Transfer instruments.--

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

22 (2) After the effective date of this paragraph, a
23 transfer instrument shall include a specific description of
24 the location of the pore space being transferred. The
25 description may include a metes and bounds description of the
26 surface lying over the transferred pore space and
27 identification of the subsurface strata, formations or
28 reservoirs. In the event only a description of the surface is
29 used, the transfer shall be deemed to include pore space at
30 all depths underlying the described surface area unless

1 specifically excluded. The validity of pore space rights
2 under this paragraph shall not affect the respective
3 liabilities of a party and liabilities shall operate in the
4 same manner as if the pore space transfer were valid.

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

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

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

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

30 (b) Collective storage.--

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

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

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

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

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

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

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

28 (v) State that a person claiming an interest in the
29 pore space proposed to be collectively used should notify
30 the secretary and the storage operator at the published

1 address within 20 days of the publication date.

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

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

21 Section 5.1. Seismic exploration.

22 (a) Seismic activity review.--A storage operator shall
23 prepare a seismic activity review in accordance with existing
24 requirements for a UIC Class VI permit.

25 (b) Seismic survey or assessment.--Prior to application for
26 a UIC Class VI permit developed by the department, a storage
27 operator may conduct a seismic survey or assessment across the
28 vicinity of a potential storage facility.

29 (c) Entry onto lands.--If a storage operator is unable to
30 reasonably negotiate with a surface owner for the right to

1 conduct a seismic survey on lands owned by the surface owner,
2 the secretary may issue an order for the entry onto the lands by
3 the storage operator. In this instance, the storage operator
4 shall pay the surface owner just and reasonable compensation as
5 established by the secretary.

6 (d) Limitations and claims.--A seismic survey shall be
7 limited to geologic storage and shall remain confidential and
8 proprietary. The storage operator shall defend, indemnify and
9 hold harmless the property owner for all claims arising out of
10 entry onto the property by the storage operator, its contractors
11 and its agents.

12 Section 6. Authorization of projects.

13 (a) Carbon sequestration.--Carbon sequestration projects are
14 authorized in this Commonwealth for the purposes of:

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

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

19 (b) Conditions for authorization.--

20 (1) To operate a carbon sequestration project under this
21 section, a storage operator must obtain, and must be in
22 compliance with, a UIC Class VI permit and all other permits
23 as required by applicable statutes and regulations. Upon
24 submission of a UIC Class VI permit application, the storage
25 operator shall provide notice of application to the surface
26 property interest owners and subsurface property interest
27 owners in the vicinity of the storage facility.

28 (2) The following apply to seismic monitoring:

29 (i) A storage operator shall deploy prior to carbon
30 sequestration, and periodically operate during carbon

1 sequestration, a seismicity monitoring system to
2 determine the presence or absence, magnitude and the
3 hypocenter location to the best of the storage operator's
4 ability of seismic activity within the vicinity of the
5 storage facility as may be necessary to perform an array
6 and a risk analysis and as required by the department. A
7 storage operator may apply to the department for a waiver
8 of this requirement if the storage operator presents a
9 geohazard assessment and historical injection data
10 demonstrating that induced seismicity does not pose
11 significant risk.

12 (ii) If a storage operator is unable to reasonably
13 negotiate with a surface property interest owner for the
14 right to conduct seismic monitoring on lands owned by the
15 surface property interest owner, the secretary may issue
16 an order for the entry onto the lands by the storage
17 operator. In this instance, the storage operator shall
18 pay the surface property interest owner just and
19 reasonable compensation as established by the secretary.

20 (iii) The storage operator shall defend, indemnify
21 and hold harmless the surface property interest owner and
22 subsurface property interest owner for all claims arising
23 out of entry onto the property by the storage operator,
24 its contractors and its agents.

25 (iv) A storage operator shall provide for the
26 submission to the department of any seismic data above a
27 seismic threshold or frequency determined by the
28 department in a manner provided for by the department.

29 (3) To operate a carbon sequestration project under this
30 section, a storage operator shall design the carbon

1 sequestration project to isolate any existing or future
2 production from the mineral, including of the coal, or oil and
3 gas estate, from the carbon dioxide plume and shall indicate
4 whether the storage facility contains commercially valuable
5 mineral, including the coal, or oil and gas estates, and, if it
6 does, a permit may be issued only if the department is satisfied
7 that the interests of the mineral, including coal, or oil and
8 gas estate, will not be adversely affected and have been
9 addressed in an agreement entered into by the storage operator
10 and the subsurface property interest owners.

11 Section 7. Ownership of material injected into storage
12 facilities and liability for holding interests
13 related to a storage facility or giving consent to
14 allow carbon sequestration activities.

15 (a) General rule.--All carbon dioxide, and other substances
16 injected incidental to the injection of carbon dioxide, injected
17 into a storage facility for the purpose of carbon sequestration
18 shall be presumed to be owned by the storage operator of the
19 material and all rights, benefits, burdens and liabilities of
20 the ownership shall belong to the storage operator. This
21 presumption may be rebutted by an individual claiming contrary
22 ownership by a preponderance of the evidence in an action to
23 establish ownership.

24 (b) Liability.--No owner of pore space, other individual
25 holding any right to control pore space or other surface
26 property interest owner or subsurface property interest owner,
27 shall be liable for the effects of injecting carbon dioxide for
28 carbon sequestration activities, or for the effects of injecting
29 other substances for the purpose of carbon sequestration which
30 substances are injected incidental to the injection of carbon

1 dioxide, solely by virtue of their interest in the pore space or
2 surface or subsurface rights.

3 Section 8. Liability of storage operator.

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

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

12 (2) has caused injury to an individual, animal or real
13 or personal property.

14 (b) Redress and damages.--

15 (1) A surface property interest owner or subsurface
16 property interest owner or lessee who incurs injury or damage
17 or loss of property value as a result of the injection or
18 migration of carbon dioxide described in subsection (a) shall
19 have a right of action against the storage operator for
20 injunction, damages or other appropriate civil or equitable
21 relief.

22 (2) A surface property interest owner, subsurface
23 property interest owner or lessee may seek recovery for any
24 of the following:

25 (i) General and special damages, including actual
26 damages, for the diminution in property value resulting
27 from the injection and migration of carbon dioxide beyond
28 the storage facility.

29 (ii) Punitive damages.

30 (iii) Reasonable attorney fees and costs.

- 1 (iv) Injunctive and other equitable relief.
- 2 (v) Other relief which the court deems necessary and
- 3 proper.

4 (3) A surface property interest owner, subsurface
5 property interest owner or lessee may not seek punitive
6 damages due to injection or migration of carbon dioxide if
7 the storage operator is determined to have had a reasonable
8 basis for believing that the carbon sequestration project
9 would not result in migration of carbon dioxide beyond the
10 storage facility.

11 Section 9. Operation and storage ~~fees~~ FEE. <--

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

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

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

19 (i) Regulating storage facilities during their
20 construction, operation and preclosure phases.

21 (ii) Long-term monitoring and management of the
22 storage facility following issuance of the certificate of
23 project completion under section 11.

24 (2) The department shall transmit to the Legislative
25 Reference Bureau for publication in the next available issue
26 of the Pennsylvania Bulletin a schedule of ~~fees~~ THE FEE SET <--
27 under this section.

28 ~~(c) Segregation of funds. Fees imposed by the department~~ <--
29 ~~under this section shall be segregated as follows:~~

30 ~~(1) Fifty percent of fees imposed for the purpose of~~

1 ~~covering the activities described in section 10(c) (1), (2)~~
2 ~~and (3) shall be deposited to the credit of the fund, and 50%~~
3 ~~of the fees shall be held in escrow by the storage operator~~
4 ~~pursuant to rules promulgated by the department, provided~~
5 ~~that rules permit investment of the escrowed funds.~~

6 ~~(2) One hundred percent of the fees imposed for the~~
7 ~~purpose of covering the activities described in section 10(c)~~
8 ~~(4) shall be held in escrow by the storage operator pursuant~~
9 ~~to rules promulgated by the Environmental Quality Board,~~
10 ~~provided that rules permit investment of the escrowed funds.~~

11 (C) DEPOSIT.--THE FEE IMPOSED BY THE DEPARTMENT UNDER THIS <--
12 SECTION SHALL BE DEPOSITED AS FOLLOWS:

13 (1) FIFTY PERCENT OF THE FEE SHALL BE DEPOSITED INTO THE
14 FUND.

15 (2) FIFTY PERCENT OF THE FEE SHALL BE DEPOSITED INTO THE
16 RESTRICTED ACCOUNT WITHIN THE FUND ESTABLISHED UNDER SECTION
17 10(A) (2).

18 (d) Penalties.--Penalties imposed for violations of this act
19 or regulations promulgated under this act and funds received by
20 the department from financial responsibility mechanisms shall be
21 remitted to the fund.

22 Section 10. Fund.

23 ~~(a) Establishment. The Carbon Dioxide Storage Facility Fund <--~~
24 ~~is established as a separate fund within the State Treasury.~~

25 ~~(b) Administration. The department shall administer the~~
26 ~~fund.~~

27 ~~(c) Purpose. The fund shall be used only for defraying the~~
28 ~~department's expenses associated with:~~

29 ~~(1) Processing permit applications.~~

30 ~~(2) Regulating storage facilities during construction,~~

1 ~~operational and preclosure phases.~~

2 ~~(3) Making storage amount determinations.~~

3 ~~(4) Long term monitoring and management of a closed~~
4 ~~storage facility.~~

5 ~~(d) Interest. Interest earned by the fund shall be~~
6 ~~deposited into the fund.~~

7 ~~(e) Transfer. Money in the fund may not be transfered to~~
8 ~~the General Fund or another fund.~~

9 ~~(f) Deposit. At the time a certificate of project~~
10 ~~completion is issued by the department, the storage operator~~
11 ~~shall deposit to the credit of the fund all money accumulated by~~
12 ~~the storage operator in escrow under section 9(c), provided that~~
13 ~~the total amount credited by the storage operator shall not~~
14 ~~exceed the anticipated cost of oversight and management~~
15 ~~following closure of the geologic storage facility and~~
16 ~~associated carbon dioxide injection wells, as determined by the~~
17 ~~department.~~

18 (A) ESTABLISHMENT.--

<--

19 (1) THE CARBON DIOXIDE STORAGE FACILITY FUND IS
20 ESTABLISHED AS A SEPARATE FUND WITHIN THE STATE TREASURY.

21 (2) A RESTRICTED ACCOUNT IS ESTABLISHED WITHIN THE FUND
22 FOR THE PURPOSE PROVIDED UNDER SUBSECTION (C) (2).

23 (B) ADMINISTRATION.--THE DEPARTMENT SHALL ADMINISTER THE
24 FUND.

25 (C) USE OF FUND AND RESTRICTED ACCOUNT.--

26 (1) THE FUND SHALL BE USED ONLY FOR DEFRAYING THE
27 DEPARTMENT'S EXPENSES ASSOCIATED WITH:

28 (I) PROCESSING PERMIT APPLICATIONS.

29 (II) REGULATING STORAGE FACILITIES DURING
30 CONSTRUCTION, OPERATIONAL AND PRECLOSURE PHASES.

1 (III) MAKING STORAGE AMOUNT DETERMINATIONS.

2 (2) THE RESTRICTED ACCOUNT SHALL BE USED ONLY FOR
3 DEFRAYING THE COSTS ASSOCIATED WITH LONG-TERM MONITORING AND
4 MANAGEMENT OF A CLOSED STORAGE FACILITY FOLLOWING THE
5 ISSUANCE OF THE CERTIFICATE OF PROJECT COMPLETION UNDER
6 SECTION 11.

7 (D) INTEREST.--

8 (1) INTEREST EARNED BY THE FUND SHALL BE DEPOSITED INTO
9 THE FUND.

10 (2) INTEREST EARNED BY THE RESTRICTED ACCOUNT SHALL BE
11 DEPOSITED INTO THE RESTRICTED ACCOUNT.

12 (E) TRANSFER.--MONEY IN THE FUND MAY NOT BE TRANSFERRED TO
13 THE GENERAL FUND OR ANOTHER FUND.

14 (F) APPROPRIATION.--MONEY IN THE FUND AND RESTRICTED ACCOUNT
15 SHALL BE ANNUALLY APPROPRIATED BY THE GENERAL ASSEMBLY.

16 Section 11. Certificate of project completion.

17 (a) Issuance.--After all carbon dioxide injections
18 underground or into pore space are completed and upon
19 application by the storage operator, the department may issue a
20 certificate of project completion. The department shall issue a
21 certificate upon satisfaction of the conditions imposed under
22 this section and after providing public notice of the
23 application, an opportunity for public comment and a public
24 hearing on the application.

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

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

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

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

6 (3) The carbon dioxide that has been injected
7 underground for storage is not expected to expand vertically
8 or horizontally and poses no threat to human health, human
9 safety, the environment or underground sources of drinking
10 water.

11 (4) The carbon dioxide that has been injected
12 underground for storage is unlikely to cross any underground
13 or pore space boundary and is not expected to endanger any
14 underground source of drinking water or otherwise endanger
15 human health, human safety or the environment.

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

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

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

23 (1) In exchange for assuming responsibility and
24 liability for the stored carbon dioxide as provided in this
25 section, title to the stored or injected carbon dioxide, and
26 any facilities used to inject or store the carbon dioxide,
27 without payment of compensation, shall be transferred to the
28 Commonwealth.

29 (2) Title acquired by the Commonwealth includes all
30 rights, and interests in, and all responsibilities associated

1 with, the stored or injected carbon dioxide, subject to
2 limitations provided within this subsection.

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

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

11 (ii) situations in which the department determines,
12 after notice and hearing, that the operator provided
13 deficient or erroneous information that was material and
14 relied upon by the department to support approval of site
15 closure;

16 (iii) situations in which the department determines,
17 after notice and hearing, that there is carbon dioxide
18 migration for which the operator is responsible that
19 causes or threatens imminent and substantial endangerment
20 to an underground source of drinking water; or

21 (iv) the balance of the escrow or the fund is
22 insufficient to cover costs arising from storage
23 facilities and associated carbon dioxide injection wells
24 after site closure.

25 (4) The storage operator and all individuals who
26 generated, injected or stored carbon dioxide shall be forever
27 released from all regulatory requirements associated with the
28 continued storage and maintenance of the injected carbon
29 dioxide, except as provided in paragraph (3).

30 (5) A bond or financial assurance submitted to the

1 department shall be released.

2 (6) The department shall assume responsibility to manage
3 and monitor the stored carbon dioxide until a time when the
4 Federal Government assumes responsibility for the long-term
5 monitoring and management of stored carbon dioxide.

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

9 This act shall take effect immediately.