

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 SENATE BILL 492

By: Sparks

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6 AS INTRODUCED

7 An Act relating to geologic sequestration activities;  
8 providing short title; defining terms; prohibiting  
9 geologic sequestration of carbon dioxide without  
10 authorization by Department of Environmental Quality;  
11 stating exception; providing for permits; authorizing  
12 Board of Environmental Quality to promulgate rules;  
13 requiring public comment and consultation; requiring  
14 rules for certain actions; requiring certain  
15 information in applications; requiring formation of  
16 certain working group by certain date; requiring  
17 group to develop financial assurance requirements;  
18 requiring fee for application; requiring Director to  
19 recommend changes consistent with federal  
20 regulations; providing for jurisdiction over  
21 subsequent extraction of carbon dioxide for certain  
22 purposes; providing for codification; and providing  
23 an effective date.

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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 3-5-101 of Title 27A, unless  
21 there is created a duplication in numbering, reads as follows:

22 A. This act shall be known and may be cited as the "Geologic  
23 Sequestration Activities Act".

24 B. As used in the Geologic Sequestration Activities Act:

- 1 1. "Board" means the Board of Environmental Quality;
- 2 2. "Commission" means the Corporation Commission; and
- 3 3. "Department" means the Department of Environmental Quality.

4 SECTION 2. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 3-5-102 of Title 27A, unless  
6 there is created a duplication in numbering, reads as follows:

7 A. The geologic sequestration of carbon dioxide is prohibited  
8 unless authorized by a permit issued by the Department of  
9 Environmental Quality.

10 B. The injection of carbon dioxide for purposes of a project  
11 for enhanced recovery of oil or other minerals approved by the  
12 Corporation Commission shall not be subject to the provisions of  
13 this chapter.

14 C. If an oil and gas operator converts to geologic  
15 sequestration upon the cessation of oil and gas recovery operations,  
16 then regulation of the geologic sequestration facility and the  
17 geologic sequestration site shall be transferred to the Department.  
18 If the oil and gas operator does not convert to geologic  
19 sequestration, the wells shall be plugged and abandoned according to  
20 the rules of the Commission.

21 D. Temporary time-limited permits for pilot scale testing of  
22 technologies for geologic sequestration shall be issued by the  
23 Department based upon rules promulgated by the Environmental Quality  
24 Board.

1 E. Permit requirements for geologic sequestration of carbon  
2 dioxide shall be as defined by rules promulgated by the  
3 Environmental Quality Board.

4 F. The Department, after receiving public comment and after  
5 consultation with the Advisory Council created in subsection G of  
6 this section, shall recommend to the Board rules for:

7 1. The creation of subclasses of wells within the existing  
8 Underground Injection Control (UIC) program administered by the  
9 United States Environmental Protection Agency under Part C of the  
10 federal Safe Drinking Water Act, 42 USC, Section 300 et seq., to  
11 protect human health, safety and the environment and allow for the  
12 permitting of the geologic sequestration of carbon dioxide;

13 2. Requirements for the content of applications for geologic  
14 sequestration permits. Such applications shall include:

15 a. a description of the general geology of the area to be  
16 affected by the injection of carbon dioxide including  
17 geochemistry, structure and faulting, fracturing and  
18 seals, stratigraphy and lithology including  
19 petrophysical attributes,

20 b. a characterization of the injection zone and aquifers  
21 above and below the injection zone which may be  
22 affected including applicable pressure and fluid  
23 chemistry data to describe the projected effects of  
24 injection activities,

- 1 c. the identification of all other drill holes and  
2 operating wells that exist within and adjacent to the  
3 proposed sequestration site,
- 4 d. an assessment of the impact to fluid resources, on  
5 subsurface structures and the surface of lands that  
6 may reasonably be expected to be impacted and the  
7 measures required to mitigate such impacts,
- 8 e. plans and procedures for environmental surveillance  
9 and excursion detection, prevention and control  
10 programs. For purposes of this section, "excursion"  
11 shall mean the detection of migrating carbon dioxide  
12 at or beyond the boundary of the geologic  
13 sequestration site,
- 14 f. a site and facilities description, including a  
15 description of the proposed geologic sequestration  
16 facilities and documentation sufficient to demonstrate  
17 that the applicant has all legal rights, including but  
18 not limited to the right to surface use, necessary to  
19 sequester carbon dioxide and associated constituents  
20 into the proposed geologic sequestration site,
- 21 g. proof that the proposed injection wells are designed  
22 at a minimum to the construction standards set forth  
23 by the Corporation Commission,  
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- 1 h. a plan for periodic mechanical integrity testing of  
2 all wells,
- 3 i. a monitoring plan to assess the migration of the  
4 injected carbon dioxide and to insure the retention of  
5 the carbon dioxide in the geologic sequestration site,
- 6 j. proof of bonding or financial assurance to ensure that  
7 geologic sequestration sites and facilities will be  
8 constructed, operated and closed in accordance with  
9 the purposes and provisions of this act and the rules  
10 promulgated pursuant to this act,
- 11 k. a detailed plan for post-closure monitoring,  
12 verification, maintenance and mitigation,
- 13 l. proof of notice to surface owners, mineral claimants,  
14 mineral owners, lessees and other owners of record of  
15 subsurface interests as to the contents of such  
16 notice. Notice requirements shall at a minimum  
17 require:
- 18 (1) the publishing of notice of the application in a  
19 newspaper of general circulation in each county  
20 of the proposed operation at weekly intervals for  
21 four (4) consecutive weeks,
- 22 (2) a copy of the notice shall also be mailed to all  
23 surface owners, mineral claimants, mineral  
24 owners, lessees and other owners of record of

1 subsurface interests which are located within one  
2 (1) mile of the proposed boundary of the geologic  
3 sequestration site.

4 (3) requirements for the operator to provide  
5 immediate verbal notice to the department of any  
6 excursion after the excursion is discovered,  
7 followed by written notice to all surface owners,  
8 mineral claimants, mineral owners, lessees and  
9 other owners of record of subsurface interests  
10 within thirty (30) days of when the excursion is  
11 discovered,

12 (4) procedures for the termination or modification of  
13 any applicable Underground Injection Control  
14 (UIC) permit issued under Part C of the Safe  
15 Drinking Water Act if an excursion cannot be  
16 controlled or mitigated, and

17 (5) such other conditions and requirements as  
18 necessary to carry out this section.

19 G. Within thirty (30) days following the effective date of this  
20 act, the Executive Director of the Department shall convene an  
21 Advisory Council for the purpose of developing an appropriate  
22 bonding procedure and other financial assurance methods to assure  
23 that adequate financial resources are provided to pay for any  
24 mitigation or reclamation costs that the state may incur as a result

1 of default by the permit holder. The bond or other financial  
2 assurance shall be required during the operating life of the  
3 sequestration project and throughout the post-closure care period in  
4 order to abate or remedy any violation of a permit, standard or rule  
5 established under the provisions of this act. The Advisory Council  
6 shall recommend to the Legislature the duration of the post-closure  
7 care period. At a minimum, the bond or other financial assurance  
8 shall provide assurance for closure and reclamation costs, post-  
9 closure inspection and maintenance costs and environmental  
10 monitoring, verification and control costs.

11 H. At the time a permit application is filed, an applicant  
12 shall pay a fee to be determined by the director based upon the  
13 estimated costs of reviewing, evaluating, processing, serving notice  
14 of an application and holding any hearings. The fee shall be  
15 credited to a separate account and shall be used by the division as  
16 required to complete the tasks necessary to process, publish and  
17 reach a decision on the permit application. Unused fees shall be  
18 returned to the applicant.

19 I. The director shall recommend any changes that may be  
20 required to provide consistency and equivalency between the rules  
21 promulgated under this section and any promulgated for the  
22 regulation of carbon dioxide sequestration by the United States  
23 Environmental Protection Agency.

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1 J. The Department shall have jurisdiction over any subsequent  
2 extraction of sequestered carbon dioxide that is intended for  
3 commercial or industrial purposes, except for oil and gas  
4 exploration uses.

5 SECTION 3. This act shall become effective November 1, 2009.

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7 52-1-1193 MJM 3/6/2009 4:54:01 AM

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