



February 25, 2022

ENGROSSED HOUSE BILL No. 1209

DIGEST OF HB 1209 (Updated February 24, 2022 12:48 pm - DI 129)

Citations Affected: IC 14-39.

Synopsis: Carbon sequestration projects. Provides for the mechanism for underground storage of carbon dioxide in Indiana. Provides that the new chapter does not apply to the carbon sequestration pilot project established pursuant to IC 14-39-1. Makes conforming changes.

Effective: July 1, 2022.

Soliday, Jackson, Manning, Abbott

(SENATE SPONSORS — GLICK, NIEZGODSKI)

January 6, 2022, read first time and referred to Committee on Natural Resources.
January 18, 2022, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.
January 24, 2022, amended, reported — Do Pass.
January 26, 2022, read second time, amended, ordered engrossed.
January 27, 2022, engrossed. Read third time, passed. Yeas 76, nays 13.

SENATE ACTION

February 8, 2022, read first time and referred to Committee on Natural Resources.
February 21, 2022, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.
February 24, 2022, amended, reported favorably — Do Pass.

EH 1209—LS 7024/DI 139



February 25, 2022

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1209

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-39-1-4, AS ADDED BY P.L.150-2011,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 4. (a) A carbon dioxide transmission pipeline
4 company may apply to the department for issuance of a carbon dioxide
5 transmission pipeline certificate of authority. The department shall
6 prescribe the form of the application, which must:
7 (1) include a filing fee of one thousand dollars (\$1,000);
8 (2) be signed by a responsible officer of the company;
9 (3) include a statement verifying that the information submitted
10 is true, accurate, and complete to the best of that responsible
11 officer's knowledge and belief; and
12 (4) include all information necessary for the department to find
13 the following:
14 (A) That the applicant **or the contractor or subcontractor of**
15 **the applicant** has the financial, managerial, and technical
16 ability to construct, operate, and maintain a carbon dioxide
17 transmission pipeline in Indiana.

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- 1 (B) That the applicant has the requisite experience
2 constructing, operating, and maintaining a carbon dioxide
3 transmission pipeline.
- 4 (C) That the applicant has entered into a contract to transport
5 carbon dioxide by pipeline in Indiana with:
- 6 (i) at least one (1) producer of carbon dioxide located in
7 Indiana; and
- 8 (ii) unless all of the carbon dioxide to be transported in the
9 proposed carbon dioxide transmission pipeline is for the
10 applicant's own use or account, at least one (1) end user **or**
11 **storer** of carbon dioxide.
- 12 (D) That the applicant has provided documentation to the
13 department showing the proposed length, diameter, and
14 location of the proposed carbon dioxide transmission pipeline
15 in Indiana.
- 16 (E) That the applicant will construct, operate, and maintain the
17 proposed carbon dioxide transmission pipeline in accordance
18 with applicable local, state, and federal law, including federal
19 and state safety regulations and rules governing the
20 construction, operation, and maintenance of carbon dioxide
21 transmission pipelines, and related facilities and equipment, to
22 ensure the safety of pipeline employees and the public.
- 23 (F) That the applicant has:
- 24 (i) entered into an agreement with the Indiana utility
25 regulatory commission concerning the mitigation of
26 agricultural impacts associated with the construction of the
27 proposed carbon dioxide transmission pipeline; or
- 28 (ii) signed a statement indicating that the applicant agrees to
29 use, in connection with the construction of the proposed
30 carbon dioxide transmission pipeline, the guidelines adopted
31 under IC 8-1-22.6-8 by the pipeline safety division of the
32 Indiana utility regulatory commission.
- 33 (b) The department shall review an application filed under
34 subsection (a). Subject to subsection (f), if the department determines
35 that the application is incomplete or inaccurate, or both, the department
36 shall return the application to the applicant, informing the applicant in
37 writing of the applicant's right to file a corrected application with the
38 department. If the department determines that the application is
39 complete and accurate, the department shall provide notice to the
40 applicant of:
- 41 (1) that determination; and
- 42 (2) the date, time, and location of the public information meeting



- 1 to be held under subsection (d).
 2 (c) The applicant shall:
 3 (1) upon receipt of a notice under subsection (b):
 4 (A) place for public inspection a copy of the application in a
 5 public library located in each county in which the carbon
 6 dioxide transmission pipeline is proposed to be located; and
 7 (B) publish notice, in the same manner that would be required
 8 if the applicant were subject to IC 5-3-1, in each county in
 9 which the carbon dioxide transmission pipeline is proposed to
 10 be located, of:
 11 (i) the name and address of each library in which a copy of
 12 the application is placed under clause (A); and
 13 (ii) the date, time, and location of the public information
 14 meeting to be held under subsection (d);
 15 (2) provide to the department proof of publication of notice under
 16 subdivision (1)(B); and
 17 (3) have a representative present at the public information
 18 meeting held under subsection (d).
 19 (d) The department shall:
 20 (1) conduct a public information meeting in the county seat of one
 21 (1) of the counties, as determined by the department, in which the
 22 proposed carbon dioxide transmission pipeline will be located;
 23 and
 24 (2) provide an opportunity at the meeting for members of the
 25 public to be briefed and to ask questions about the proposed
 26 carbon dioxide transmission pipeline.
 27 (e) Not later than ninety (90) days after the public information
 28 meeting held under subsection (d), the department shall notify the
 29 applicant in writing that:
 30 (1) the department:
 31 (A) has made the findings described in subsection (a)(4); and
 32 (B) has approved the application; or
 33 (2) the department:
 34 (A) has determined that the department is unable to make the
 35 findings described in subsection (a)(4); and
 36 (B) has disapproved the application.
 37 (f) The department shall process a corrected application that is filed
 38 as permitted under subsection (b) in the same manner the department
 39 processes an initially filed application under subsection (a).
 40 (g) If the department fails to act under subsection (e) not later than
 41 ninety (90) days after the public information meeting held under
 42 subsection (d), the application is considered to be approved by the



1 department.

2 (h) If:

3 (1) the department approves the application under subsection
4 (e)(1); or

5 (2) the application is considered to be approved as described in
6 subsection (g);

7 the department shall issue to the applicant a carbon dioxide
8 transmission pipeline certificate of authority.

9 SECTION 2. IC 14-39-2 IS ADDED TO THE INDIANA CODE AS
10 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2022]:

12 **Chapter 2. Underground Storage of Carbon Dioxide**

13 **Sec. 1. (a) Except as otherwise provided in this chapter, this
14 chapter does not apply to extractable mineral resources.**

15 **(b) Except as otherwise provided in this chapter, this chapter
16 does not preclude the exercise of rights provided by IC 14-37-9.**

17 **(c) Except as otherwise provided in this chapter, this chapter
18 applies to the underground storage of carbon dioxide.**

19 **(d) The rights and requirements of this chapter:**

20 **(1) are subordinate to the rights pertaining to oil, gas, and
21 coal resources; and**

22 **(2) may not adversely affect oil, gas, and coal resources,
23 except as is strictly necessary to construct and maintain a
24 carbon sequestration project that will provide for the
25 permanent storage of carbon dioxide.**

26 **Sec. 2. (a) The following definitions apply throughout this
27 chapter.**

28 **(b) "Carbon dioxide" has the meaning set forth in IC 14-39-1-1.**

29 **(c) "Carbon dioxide injection well" refers to a well that is used
30 to inject carbon dioxide into a reservoir for carbon sequestration
31 pursuant to a UIC Class VI permit.**

32 **(d) "Carbon dioxide plume" means the extent of an
33 underground three-dimensional injected carbon dioxide stream.**

34 **(e) "Carbon sequestration" means the underground storage of
35 carbon dioxide in a reservoir.**

36 **(f) "Carbon sequestration project" means any project that
37 involves the underground storage of carbon dioxide in a reservoir
38 pursuant to at least one (1) UIC Class VI permit.**

39 **(g) "Mineral lessee" means a lessee identified by the records of
40 the recorder of deeds for each county containing a portion of the
41 proposed reservoir who holds an interest in minerals on real
42 property that are located above, below, or within the proposed**



- 1 reservoir that has been severed from the surface estate by:
- 2 (1) grant;
- 3 (2) exception;
- 4 (3) reservation;
- 5 (4) lease; or
- 6 (5) any other means.
- 7 (h) "Mineral owner" means an owner identified by the records
- 8 of the recorder of deeds for each county containing a portion of the
- 9 proposed reservoir who holds an interest in minerals on real
- 10 property that are located above, below, or within the proposed
- 11 reservoir that has been severed from the surface estate by:
- 12 (1) grant;
- 13 (2) exception;
- 14 (3) reservation;
- 15 (4) lease; or
- 16 (5) any other means.
- 17 (i) "Pore space" means subsurface cavities or voids that can be
- 18 used as a storage space for carbon dioxide.
- 19 (j) "Pore space owner" means:
- 20 (1) a person;
- 21 (2) a trust;
- 22 (3) a corporation; or
- 23 (4) another entity;
- 24 that has title to, a right to, or an interest in pore space.
- 25 (k) "Reservoir" means a subsurface:
- 26 (1) sedimentary stratum;
- 27 (2) formation;
- 28 (3) aquifer;
- 29 (4) cavity; or
- 30 (5) void;
- 31 that is naturally or artificially created for the use of, or is capable
- 32 of being made suitable for, injecting and storing carbon dioxide.
- 33 (l) "Storage facility" means the subsurface area consisting of the
- 34 extent of a carbon dioxide plume which is required to be delineated
- 35 on an approved UIC Class VI permit or an amendment to a UIC
- 36 Class VI permit of a storage operator.
- 37 (m) "Storage operator" means:
- 38 (1) a person;
- 39 (2) a trust;
- 40 (3) a corporation; or
- 41 (4) another entity;
- 42 that operates a carbon sequestration project.



1 (n) "Surface or subsurface property interest owner" means a
 2 property interest owner identified by the records of the recorder
 3 of deeds for each county containing a portion of the proposed
 4 storage facility who holds a fee simple interest or other freehold
 5 interest in the surface or subsurface of the property, which may
 6 include mineral rights. The term does not include the owner of a
 7 right-of-way, an easement, or a leasehold.

8 (o) "UIC Class VI permit" means a permit issued under the
 9 federal Safe Drinking Water Act's Underground Injection Control
 10 program that allows:

- 11 (1) a person;
- 12 (2) a trust;
- 13 (3) a corporation; or
- 14 (4) another entity;

15 to operate a carbon dioxide injection well.

16 (p) "Underground storage of carbon dioxide" means the
 17 injection and storage of carbon dioxide into underground strata
 18 and formations pursuant to at least one (1) UIC Class VI permit.

19 Sec. 3. (a) Before July 1, 2022, this chapter does not alter,
 20 amend, diminish, or invalidate ownership of the pore space of real
 21 property that has been divided into a surface estate and a mineral
 22 estate where ownership of the pore space was acquired or reserved
 23 by conveyance document. Any ownership rights to pore space that
 24 were not expressly or by implication acquired or reserved by
 25 conveyance document remain vested in the surface estate.

26 (b) After June 30, 2022, the ownership of pore space is vested in
 27 the surface estate of real property that is divided into a surface
 28 estate and a mineral estate unless such rights are explicitly
 29 acquired by conveyance document.

30 (c) This chapter does not alter, amend, diminish, or invalidate
 31 common law established prior to July 1, 2022, regarding the rights
 32 to or dominance of a mineral estate, or the implied or express right
 33 of a mineral owner or mineral lessee for the use of pore space.

34 (d) A grant of:

- 35 (1) an easement to use; or
- 36 (2) a lease of pore space;

37 for carbon sequestration is in perpetuity if specified by an
 38 easement or lease. Unless an individual who obtains an easement
 39 or lease operates carbon dioxide injection not later than twenty
 40 (20) years after obtaining the easement or lease, interest shall
 41 lapse, extinguish, and revert to the owner of the surface estate.

42 Sec. 4. (a) If at least two (2) pore space owners own pore space



1 located within a proposed carbon dioxide storage area of a storage
2 facility, the owners may agree to integrate their interests to
3 develop the pore space as a proposed storage facility for the
4 underground storage of carbon dioxide.

5 (b) If all of the owners of the pore space under subsection (a) do
6 not agree to integrate their interests, the department may issue an
7 order requiring the owners to integrate their interests and to
8 develop the pore space as a proposed storage facility for the
9 underground storage of carbon dioxide to serve the public interest
10 subject to the findings under subsection (c).

11 (c) Before issuing an order under subsection (b), the department
12 must make the following findings:

13 (1) That a storage operator has been issued a UIC Class VI
14 permit or an amended UIC Class VI permit.

15 (2) That the storage operator has made a good faith effort to
16 obtain the consent of all pore space owners located within the
17 proposed storage facility.

18 (3) That the storage operator has obtained the consent of the
19 owners of the pore space underlying at least seventy percent
20 (70%) of the surface area above the proposed storage facility
21 or amended proposed storage facility.

22 (4) That all pore space owners who do not agree to integrate
23 their interests to develop the pore space as a proposed storage
24 facility for the underground storage of carbon dioxide are
25 equitably compensated.

26 (d) A right to pore space granted by this section does not confer
27 a right to enter upon, or otherwise use, the surface of the land
28 which is integrated under this section unless provided in an order
29 requiring the owners to integrate their interests and to develop the
30 pore space as a proposed storage facility for the underground
31 storage of carbon dioxide.

32 Sec. 5. (a) Carbon sequestration projects are authorized in
33 Indiana for the purposes of:

34 (1) injecting carbon dioxide into the pore space of an
35 underground storage facility through at least one (1) carbon
36 dioxide injection well pursuant to a UIC Class VI permit; and

37 (2) employing the underground storage of carbon dioxide.

38 (b) A storage operator may not operate a carbon sequestration
39 project in Indiana without:

40 (1) a UIC Class VI permit; and

41 (2) a valid permit issued by the department.

42 (c) If a carbon sequestration project is owned by an entity other



1 than the storage operator, the storage operator shall be responsible
2 for obtaining a permit for a carbon sequestration project under
3 subsection (b). A permit for a carbon sequestration project may be
4 transferred or assigned from one (1) storage operator to another
5 storage operator.

6 (d) An individual may apply to the department for a permit for
7 a carbon sequestration project in a form and manner prescribed
8 by the department.

9 (e) An application under subsection (d) must include the
10 following:

11 (1) A filing fee of one thousand dollars (\$1,000).

12 (2) The signature of the applicant.

13 (3) A statement verifying that the information submitted is
14 true, accurate, and complete to the best of applicant's
15 knowledge.

16 (4) Information illustrating that the applicant has the
17 financial, managerial, and technical ability to construct,
18 operate, and maintain a carbon sequestration project.

19 (5) Information illustrating that the applicant or the
20 contractors or subcontractors of the applicant have the
21 requisite expertise in constructing, operating, and maintaining
22 a carbon sequestration project.

23 (6) Documentation to the department describing the scope of
24 the proposed carbon sequestration project.

25 (7) A statement describing how the applicant will construct,
26 operate, and maintain the proposed carbon sequestration
27 project in accordance with applicable local, state, and federal
28 law, including federal and state safety regulations and rules
29 governing the construction, operation, and maintenance of the
30 carbon sequestration project, and related facilities and
31 equipment, to ensure the safety of the carbon sequestration
32 project employees and the public.

33 (8) A statement that the interests of a mineral lessee or
34 mineral owner will not be adversely affected. If a mineral
35 owner or mineral lessee is adversely affected, the adversely
36 affected mineral owner or mineral lessee and the applicant
37 may enter into an agreement under section 4 of this chapter.

38 Sec. 6. (a) The department shall review an application submitted
39 under section 5(d) of this chapter. If the department determines
40 that the application submitted under section 5(d) of this chapter is
41 complete, the department shall notify the applicant.

42 (b) The department shall return an application to the applicant



1 if the department determines that the application is incomplete,
2 inaccurate, or both.

3 (c) If the department returns an application to an applicant
4 under subsection (b), the department shall inform the applicant in
5 writing that the applicant may file a corrected application not
6 more than sixty (60) days after the receipt of the returned
7 application.

8 (d) Upon receiving a corrected application under this section,
9 the department shall review the application.

10 (e) Upon receiving notification that the corrected application is
11 complete, the applicant shall:

12 (1) not more than sixty (60) days after receiving the notice
13 under this subsection:

14 (A) place a copy of the corrected application in a public
15 library located in each county in which the carbon
16 sequestration project is proposed to be located for public
17 inspection;

18 (B) publish notice under IC 5-3-1 in each county in which
19 the carbon sequestration project is proposed to be located
20 of the name and address of each library in which a copy of
21 the corrected application is placed as required by clause
22 (A); and

23 (C) provide notice to potentially affected parties pursuant
24 to 312 IAC 29-5-2; and

25 (2) provide to the department proof of publication of notice
26 under this subsection not more than thirty (30) days after the
27 publication or delivery of the notice.

28 (f) Not later than ninety (90) days after receiving the proof of
29 publication of notice under subsection (e), the department shall
30 notify the applicant in writing that:

31 (1) the department has approved the application; or

32 (2) the department has denied the application.

33 Sec. 7. If the department approves an application under section
34 5 of this chapter or a corrected application under section 6(c) of
35 this chapter, the department shall issue to the applicant a carbon
36 sequestration project permit.

37 Sec. 8. (a) Except as provided in subsection (b), if a storage
38 operator or an applicant files a verified statement to the
39 department stating the reasons that trade secret or confidential
40 and proprietary information should be disclosed, the storage
41 operator or applicant may disclose the trade secret or confidential
42 and proprietary information to the department, or in subsequent



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reports.

(b) The department shall take all necessary precautions to avoid public disclosure of confidential information under subsection (a).

Sec. 9. (a) A storage operator shall pay the department a fee for every ton of carbon dioxide injected for storage.

(b) The storage operator shall provide the department with an estimate of the amount of carbon dioxide to be injected into a storage facility for the period of the permit at the time of application for a carbon sequestration project permit.

(c) A storage operator shall pay annually to the department a fee of eight cents (\$0.08) per ton of carbon dioxide estimated to be injected into a storage facility.

(d) A storage operator shall reconcile the previous calendar year's payment with the volume of carbon dioxide actually injected into the storage facility the previous calendar year. The storage operator shall submit payment for the amount of carbon dioxide injected into a storage facility less the amount paid the previous calendar year.

(e) The department shall refund a storage operator any overpayment in the current year from the previous calendar year.

Sec. 10. (a) The carbon dioxide storage facility trust fund is established.

(b) The fee collected under section 9 of this chapter must be deposited in the carbon dioxide storage facility trust fund established by subsection (a).

(c) The carbon dioxide storage facility trust fund must be maintained as a special fund and all money in the fund is appropriated and may be used only to defray the costs incurred by the department for the long term monitoring and management of a carbon sequestration project.

Sec. 11. (a) A mineral owner or mineral lessee shall provide written notice to a storage operator at least thirty-one (31) days prior to drilling a well if the mineral owner or mineral lessee wishes to drill a well not more than:

(1) three hundred thirty (330) feet from the surface location of a well pursuant to a UIC Class VI permit; or

(2) five hundred (500) feet from the uppermost confining zone of a carbon sequestration facility pursuant to a UIC Class VI permit.

Drilling permitted by this subsection must be conducted in cooperation with a storage operator.

(b) A well drilled under subsection (a) must be drilled in



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compliance with the requirements of:

- (1) the department to preserve the integrity of the storage facility;
- (2) a UIC Class VI permit; and
- (3) any other applicable regulations.

Sec. 12. (a) Nothing in this section prohibits recovery by a public utility for any impact on a source of the public water supply from a carbon sequestration project.

(b) A claim of subsurface trespass shall not be actionable against a storage operator conducting carbon sequestration in accordance with a valid UIC Class VI permit and a permit issued by the department for a carbon sequestration project, unless the claimant proves that injection or migration of carbon dioxide:

- (1) is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property;
- or
- (2) has caused direct physical injury to a person, an animal, or tangible property.

(c) A surface or subsurface property interest holder shall be permitted to recover money damages only for the loss of a nonspeculative value resulting from the injection and migration of carbon dioxide beyond the storage facility.

(d) A surface or subsurface property interest holder may seek punitive damages in accordance with IC 34-51-3-4 only if the storage operator violates the requirements of the UIC Class VI permit or acts with reckless disregard of public safety.

Sec. 13. (a) A certificate of project completion shall be issued upon the application from the storage operator if the department finds that the storage operator does the following:

- (1) The storage operator is in compliance with all applicable laws governing the storage facility.
- (2) The storage operator shows that the storage facility is reasonably expected to retain the carbon dioxide stored therein.
- (3) The storage operator shows that the carbon dioxide in the storage facility is stable by showing that either:
 - (A) the stored carbon dioxide is essentially stationary; or
 - (B) if the stored carbon migrates, migration will be unlikely to cross the boundaries of the storage facility.
- (4) The storage operator shows that all wells, equipment, and facilities used after the closure period are in good condition



- 1 **and retain mechanical integrity.**
- 2 **(5) The storage operator shows that injection wells have been**
- 3 **plugged.**
- 4 **(6) The storage operator shows that equipment and facilities,**
- 5 **not including fixed structures and long term monitoring**
- 6 **equipment and wells, have been removed.**
- 7 **(7) The storage operator proves that the reclamation work**
- 8 **required by the department where the project ceases to inject**
- 9 **carbon dioxide is completed.**
- 10 **(8) The following with respect to site closure:**
- 11 **(A) The storage operator has provided a notice of intent**
- 12 **for site closure to the United States Environmental**
- 13 **Protection Agency.**
- 14 **(B) The United States Environmental Protection Agency**
- 15 **has authorized site closure.**
- 16 **(C) The storage operator has provided to the United States**
- 17 **Environmental Protection Agency:**
- 18 **(i) the site closure report required under 40 CFR**
- 19 **146.93(f) (as in effect January 1, 2022); or**
- 20 **(ii) a comparable report to the state regulatory body if**
- 21 **the state assumes primacy for UIC Class VI permitting.**
- 22 **(b) The department shall issue a certificate of project**
- 23 **completion not later than one hundred eighty (180) days after**
- 24 **receiving an application from the storage operator. If the**
- 25 **department determines that the application for a certificate of**
- 26 **project completion is incomplete, inaccurate, or both, the**
- 27 **department shall return the application to the storage operator.**
- 28 **(c) If the department returns the application to the storage**
- 29 **operator under subsection (b), the department shall inform the**
- 30 **storage operator, in writing, of the deficiencies of the submitted**
- 31 **application and inform the storage operator of the right to file a**
- 32 **corrected application with the department.**
- 33 **(d) Once a certificate of completion is issued, the following**
- 34 **occurs:**
- 35 **(1) The state will assume ownership of and responsibility for**
- 36 **the storage facility.**
- 37 **(2) The state will assume responsibility for all regulatory**
- 38 **requirements associated with the storage facility, and the**
- 39 **storage operator and the owner of the storage facility are**
- 40 **released from responsibility for all regulatory requirements**
- 41 **associated with the storage facility.**
- 42 **(3) The state will assume any potential liability associated**



1 with the storage facility.
2 (e) Unless there is documentation to the contrary, the storage
3 operator has title to the carbon dioxide injected into and stored in
4 a storage facility, and the storage operator holds title until the
5 department issues a certificate of completion.
6 Sec. 14. This chapter does not apply to the carbon sequestration
7 pilot project established pursuant to IC 14-39-1.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Natural Resources, to which was referred House Bill 1209, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 4, line 13, delete "provided by law," and insert "**provided in this chapter,**".

Page 4, line 15, delete "provided by law," and insert "**provided in this chapter,**".

Page 4, line 16, after "the" insert "**exercise of**".

Page 4, between lines 16 and 17, begin a new paragraph and insert: "**(c) Except as otherwise provided, this chapter applies to the storage of carbon dioxide.**".

Page 4, line 17, delete "(c)" and insert "(d)".

Page 4, line 19, delete "reserves;" and insert "**resources;**".

Page 4, line 20, delete "reserves" and insert "**resources**".

Page 4, line 28, delete "sequestration." and insert "**sequestration pursuant to a UIC Class VI permit.**".

Page 4, line 34, delete "reservoir." and insert "**reservoir pursuant to at least one (1) UIC Class VI permit.**".

Page 5, line 20, after "title to" insert "**, a right to, or an interest in**".

Page 5, line 27, after "created for" insert "**the use of**".

Page 5, line 31, after "on" delete "a" and insert "**an approved**".

Page 5, line 31, after "permit" insert "**or an amendment to a UIC Class VI permit**".

Page 6, delete lines 11 through 12, begin a new paragraph and insert:

"(p) "Underground storage of carbon dioxide" means the injection and storage of carbon dioxide into underground strata and formations pursuant to at least one (1) UIC Class VI permit."

Page 6, line 13, delete "June 30, 2022," and insert "**July 1, 2022,**".

Page 6, line 14, delete "the rights to the use" and insert "**ownership**".

Page 6, line 16, delete "the rights to the use" and insert "**ownership**".

Page 6, line 17, delete "were explicitly acquired by" and insert "**was acquired or reserved by**".

Page 6, line 17, after "Any" insert "**ownership**".

Page 6, line 18, delete "the use of".

Page 6, line 18, delete "explicitly acquired" and insert "**expressly or by implication acquired or reserved by conveyance document**".



Page 6, line 20, delete "July 1, 2022," and insert "**June 30, 2022,**".

Page 6, line 20, delete "rights to the use" and insert "**ownership**".

Page 6, line 20, delete "remain".

Page 6, line 21, delete "vested" and insert "**is vested**".

Page 6, between lines 23 and 24, begin a new paragraph and insert:

"(c) This chapter does not alter, amend, diminish, or invalidate common law established prior to July 1, 2022, regarding the rights to or dominance of a mineral estate, or the implied or express right of a mineral owner or mineral lessee for the use of pore space."

Page 6, line 24, delete "(c)" and insert "(d)".

Page 6, line 27, delete "if so specified unless the" and insert "**if specified by an easement or lease. Unless an individual who obtains an easement or lease operates carbon dioxide injection not later than twenty (20) years after obtaining the easement or lease, interest shall lapse, extinguish, and revert to the owner of the surface estate.**".

Page 6, delete lines 28 through 32.

Page 6, line 34, delete "storage reservoir," and insert "**proposed carbon dioxide storage area of a storage facility,**".

Page 7, between lines 2 and 3, begin a new line block indented and insert:

"(1) That a storage operator has been issued a UIC Class VI permit or an amended UIC Class VI permit."

Page 7, line 3, delete "(1)" and insert "(2)".

Page 7, line 6, delete "(2)" and insert "(3)".

Page 7, line 9, delete "facility." and insert "**facility or amended proposed storage facility.**".

Page 7, line 10, delete "(3)" and insert "(4)".

Page 7, between lines 13 and 14, begin a new paragraph and insert:

"(d) A right to pore space granted by this section does not confer a right to enter upon, or otherwise use, the surface of the land which is integrated under this section unless provided in an order requiring the owners to integrate their interests and to develop the pore space as a proposed storage facility for the underground storage of carbon dioxide."

Page 7, line 16, after "into" insert "**the pore space of**".

Page 8, line 10, delete "regulation" and insert "**regulations**".

Page 8, line 16, delete "affected, or will be" and insert "**affected. If a mineral owner or mineral lessee is adversely affected, the adversely affected mineral owner or mineral lessee and the applicant may enter into an agreement under section 4 of this chapter.**".



Page 8, delete lines 17 through 20.

Page 8, line 42, delete "and".

Page 9, between lines 5 and 6, begin a new line double block indented and insert:

"(C) provide notice to potentially affected parties pursuant to 312 IAC 29-5-2; and".

Page 9, line 6, after "notice" insert **"under this subsection"**.

Page 9, line 7, after "publication" insert **"or delivery"**.

Page 10, delete lines 12 through 22, begin a new paragraph and insert:

"Sec. 11. (a) A mineral owner or mineral lessee shall provide written notice to a storage operator at least thirty-one (31) days prior to drilling a well if the mineral owner or mineral lessee wishes to drill a well not more than:

- (1) three hundred thirty (330) feet from the surface location of a well pursuant to a UIC Class VI permit; or**
- (2) five hundred (500) feet from the uppermost confining zone of a carbon sequestration facility pursuant to a UIC Class VI permit.**

Drilling permitted by this subsection must be conducted in cooperation with a storage operator.

(b) A well drilled under subsection (a) must be drilled in compliance with the requirements of:

- (1) the department to preserve the integrity of the storage facility;**
- (2) a UIC Class VI permit; and**
- (3) any other applicable regulations."**

Page 10, line 23, after "(a)" insert **"Nothing in this section prohibits recovery by a public utility for any impact on a source of the public water supply from a carbon sequestration project.**

(b)".

Page 10, line 29, delete "materially impairs the property interests outside of the" and insert **"is injurious to health, indecent, offensive to the senses, or an obstruction to the free use of property so as essentially to interfere with the comfortable enjoyment of life or property; or**

- (2) has caused direct physical injury to a person, an animal, or tangible property."**

Page 10, delete lines 30 through 33.

Page 10, line 34, delete "(b)" and insert **"(c)"**.

Page 10, line 38, delete "(c)" and insert **"(d)"**.

Page 12, delete lines 13 through 20.



Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.

(Reference is to HB 1209 as introduced.)

EBERHART

Committee Vote: yeas 10, nays 2.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1209, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 12, after line 41, begin a new paragraph and insert:

"Sec. 14. This chapter does not apply to the carbon sequestration pilot project established pursuant to IC 14-39-1."

and when so amended that said bill do pass.

(Reference is to HB 1209 as printed January 18, 2022.)

BROWN T

Committee Vote: yeas 10, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1209 be amended to read as follows:

Page 2, line 2, strike "carbon dioxide".

Page 7, line 20, delete "sixty percent (60%) of the physical volume contained within" and insert "**seventy percent (70%) of the pore space, which is the pore space underlying seventy percent (70%) of the surface area above**".



Page 7, line 21, delete "defined".
Re-number all SECTIONS consecutively.

(Reference is to HB 1209 as printed January 24, 2022.)

SOLIDAY

COMMITTEE REPORT

Madam President: The Senate Committee on Natural Resources, to which was referred House Bill No. 1209, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 17, delete "provided," and insert "**provided in this chapter,**".

Page 4, line 17, after "the" insert "**underground**".

Page 4, line 24, delete "facility" and insert "**project**".

Page 7, delete lines 18 through 23, begin a new line block indented and insert:

"(3) That the storage operator has obtained the consent of the owners of the pore space underlying at least seventy percent (70%) of the surface area above the proposed storage facility or amended proposed storage facility."

Page 8, line 25, delete "showing the proposed" and insert "**describing the**".

Page 8, line 27, delete "showing" and insert "**describing how**".

Page 9, line 30, delete "notice of" and insert "**proof of publication of notice**".

Page 9, line 31, delete "publication".

Page 10, line 32, delete "facility." and insert "**project**".

Page 11, delete lines 26 through 28, begin a new paragraph and insert:

"(d) A surface or subsurface property interest holder may seek punitive damages in accordance with IC 34-51-3-4 only if the storage operator violates the requirements of the UIC Class VI permit or acts with reckless disregard of public safety."

Page 11, line 29, delete "may" and insert "**shall**".

Page 12, line 3, after "that" insert "**injection**".

Page 12, line 6, delete "equipment," and insert "**equipment and wells,**".

Page 12, delete lines 10 through 16, begin a new line block indented



and insert:

"(8) The following with respect to site closure:

(A) The storage operator has provided a notice of intent for site closure to the United States Environmental Protection Agency.

(B) The United States Environmental Protection Agency has authorized site closure.

(C) The storage operator has provided to the United States Environmental Protection Agency:

(i) the site closure report required under 40 CFR 146.93(f) (as in effect January 1, 2022); or

(ii) a comparable report to the state regulatory body if the state assumes primacy for UIC Class VI permitting."

Page 12, line 17, delete "(c)" and insert "**(b)**".

Page 12, line 23, delete "(d)" and insert "**(c)**".

Page 12, line 24, delete "(c)," and insert "**(b)**".

Page 12, line 28, delete "(e)" and insert "**(d)**".

Page 12, line 39, delete "(f)" and insert "**(e)**".

Page 12, after line 42, begin a new paragraph and insert:

"Sec. 14. The department may adopt rules under IC 4-22-2 to implement this chapter, including rules for the establishment of a fee for the administration and implementation requirements of this chapter."

Page 13, line 1, delete "14." and insert "**15.**".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to HB 1209 as reprinted January 27, 2022.)

GLICK, Chairperson

Committee Vote: Yeas 7, Nays 2.

COMMITTEE REPORT

Madam President: The Senate Committee on Appropriations, to which was referred House Bill No. 1209, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 13, delete lines 6 through 9.

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Page 13, line 10, delete "15." and insert "14."
and when so amended that said bill do pass.

(Reference is to EHB 1209 as printed February 22, 2022.)

MISHLER, Chairperson

Committee Vote: Yeas 7, Nays 5.

