

Title 312 NATURAL RESOURCES COMMISSION

Notice of Second Public Comment Period

LSA Document #25-162

CARBON SEQUESTRATION PROJECTS

PURPOSE OF NOTICE

The Natural Resources Commission (commission) is soliciting public comment on adding rules at 312 IAC 30 concerning permanent underground carbon dioxide storage. The commission seeks comment on the affected citations listed and any other provisions of Title 312 that may be affected by this rulemaking.

HISTORY

Notice of First Public Comment Period published April 9, 2025: 20250409-IR-312250162FNA

Regulatory Analysis submitted with Notice of First Public Comment Period: 20250409-IR-312250162RAA

Date of First Hearing: May 29, 2025

[The publisher will add a list of documents received.]

ADDITIONAL DOCUMENTS

Regulatory Analysis: 20250409-IR-312250162RAA

Notice of Public Hearing: 20250409-IR-312250162PHA

Notice of Second Public Hearing: *[DIN]*

CITATIONS AFFECTED: 312 IAC 30

AUTHORITY: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

OVERVIEW

Basic Purpose and Background

The purpose of the proposed permanent rule is to provide clear regulations for persons interested in participating in carbon sequestration projects under IC 14-39. The passage of P.L. 163-2022 tasked the department of natural resources (department) with administering the carbon sequestration project program in Indiana by issuing carbon sequestration project permits. P.L. 158-2023 then gave the department rulemaking authority to adopt rules for carbon sequestration projects. The department is proposing permanent rules for the following topics based on that rulemaking authority: (1) Carbon dioxide transmission pipeline certificates of authority. (2) Carbon sequestration project permits. (3) Ongoing responsibilities of storage operators. (4) Other regulations for regulated persons.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Danae Schneck
Carbon Program Coordinator
Division of Reclamation
Department of Natural Resources
Indiana Government Center South
402 West Washington Street, Room W293
Indianapolis, IN 46204
(463) 207-5093
DSchneck@dnr.in.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

David Watkins
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol Avenue, Suite 700
Indianapolis, IN 46204
(317) 607-9176

DWatkins@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

SUMMARY/RESPONSE TO COMMENTS

The commission requested public comment from [date], through [date], and during the public hearing on May 29, 2025. The comments received and the commission's responses to the comments, in coordination with the department, are summarized as follows:

Comments were received requesting that the department prohibit carbon sequestration projects in Indiana and expressing opposition to carbon sequestration projects in general.

Response: In 2011, the Indiana General Assembly passed P.L.150-2011, which permits carbon dioxide transmission pipelines in Indiana. In 2019, the Indiana General Assembly passed P.L.291-2019, which statutorily designated the pilot project. In 2022, the Indiana General Assembly passed P.L.163-2022, which permits carbon sequestration projects in Indiana. In 2023, under P.L.158-2023, the Indiana General Assembly created a duty for the department to adopt rules to administer IC 14-39, which includes rules for carbon dioxide transmission pipelines, as well as carbon sequestration projects. The proposed permanent rules are the result of that requirement. The Indiana General Assembly has explicitly allowed carbon dioxide transmission pipelines and carbon sequestration projects in Indiana. The department does not have discretion to decide whether to allow these projects or to adopt rules for carbon sequestration projects in Indiana. Because the Indiana General Assembly created a duty on the department to adopt rules for carbon sequestration in Indiana, the department must do so. The department may not prohibit carbon sequestration.

Comments were received regarding the safety of carbon sequestration projects in Indiana.

Response: Because Indiana does not currently have primary enforcement authority, or primacy, over Class VI permits for carbon, the U.S. Environmental Protection Agency (EPA) is responsible for handling safety of carbon sequestration projects and the Pipeline and Hazardous Materials Safety Administration (PHMSA) handles pipeline safety. The proposed permanent rule does not address the safety aspect of carbon sequestration project, and may not do so due to federal preemption, unless Indiana obtains primacy of Class VI permitting. Potential operators are, however, required to obtain proper permitting from all federal, state, and local government agencies for a carbon dioxide transmission pipeline and for carbon sequestration projects. This is the responsibility of the potential operator to comply with EPA and PHMSA requirements. The EPA and PHMSA would then be the government agencies tasked with regulating safety, construction, materials, etc.

Comments were received regarding the eminent domain process and taking private property.

Response: Eminent domain is only permitted under IC 14-39-1-7 for carbon dioxide transmission pipelines. The Indiana General Assembly declared under IC 14-39-1-3 the use of carbon dioxide transmission pipelines is a public use and service, in the public interest, and is a benefit to the welfare of the people in Indiana. The Indiana General Assembly also permitted the use of eminent domain by a carbon dioxide transmission pipeline company and the pilot project. The department does not have the authority to prohibit the use of eminent domain as long as an applicant uses the process properly under the Indiana Code.

Comments were received regarding involuntary integration and the requirement that a storage operator obtain seventy percent (70%) of the pore space.

Response: IC 14-39-2-4 allows pore space owners to integrate their interests to develop pore space. If the owners of the pore space do not agree to voluntarily integrate their interest, the storage operator may apply to the department for an involuntary integration order. If the department makes the required findings under IC 14-39-2-4(c), the department may issue an involuntary integration order. One (1) required finding under IC 14-39-2-4(c)(3) is 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". Involuntary integration is used in the oil and gas industry "...for the prevention of waste or to avoid the drilling of unnecessary wells..." (IC 14-37-9-1(b)).

Comments were received regarding an operator not needing a certificate of authority if the pipeline is on the

same property.

Response: The exception to the requirement to obtain a certificate of authority specifically refers to operators who have “in the fence” wells. If the pipeline meets certain requirements provided under the Indiana Code under IC 14-39-1-4.5, and the proposed rules, a certificate of authority is not required. In these cases, the pipeline runs from the facility directly to the well at a relatively short distance, on the same property as where the carbon dioxide is injected. It is the position of the department that these are not actually pipelines because they begin and end on the surface property above the storage facility; and they do not cross public property, public rights-of-way, or parcels for which there are easements. Additionally, a pipeline company may contract for a private easement, use of a private easement, or a private right-of-way. If the pipeline company privately contracts in this manner, a certificate of authority is not needed due to the nature of private contracts.

A comment was received by the Indiana Department of Transportation (INDOT) regarding clarification of their policies to accommodate the state and federal statutory requirements of INDOT and to ensure proper documentation of surface and subsurface facilities.

Response: The department has made two (2) substantive changes to the permanent rule to accommodate this request. The first change appears under 312 IAC 30-5-7(a)(6). Subsurface facilities were added to surface facilities to ensure proper mapping of the area. Second, the addition of 312 IAC 30-6-2.5 was made to ensure explicit explanation of INDOT’s state and federal statutory requirements regarding disposition of property.

Comments were received regarding the State of Indiana spending taxpayer money on carbon sequestration projects.

Response: The Indiana General Assembly enacted IC 14-39-1 authorizing carbon dioxide transmission pipelines in 2011, and IC 14-39-2 authorizing carbon sequestration projects in 2022. Any other money appropriated to the department would be in the ordinary course of business for the department to administer the program as directed by the Indiana General Assembly. While taxpayer money does pay for the employment of staff to administer the program, the state does not pay for carbon dioxide transmission pipelines or carbon sequestration projects. Taxpayer money does not go to the projects specifically.

Comments were received regarding lack of public input on carbon sequestration projects in the State of Indiana.

Response: In 2011, when IC 14-39-1 was adopted by the Indiana General Assembly, there were several opportunities for public comment during committee hearings throughout the legislative session. In 2019, when the Indiana General Assembly designated the pilot project, there were several opportunities for public comment during committee hearings throughout the legislative session. In 2022, when the Indiana General Assembly authorized carbon sequestration projects in Indiana, there were several opportunities for public comment during committee hearings throughout the legislative session. Additionally, there were several opportunities for public comment during committee hearings throughout the legislative session during the 2023, 2024, and 2025 legislative sessions when IC 14-39 was technically and substantively amended. Finally, the official rulemaking process under IC 4-22-2 requires at least one (1) public comment period and public hearing to provide opportunity for public comment on rulemaking measures of executive agencies. If agencies receive substantive comments during the first comment period or public hearing, a second public comment period and public hearing are required by statute (IC 4-22-2-24). IC 4-22-2-26(b) states “The agency shall convene the public hearing on the date and at the time and place stated in its notices and include an option for remote attendance.” Additionally, the department has opportunities for public comment at preliminary and final adoption. This means that the public has an opportunity to comment on the proposed permanent rules at preliminary adoption, during the first comment period and public hearing, during the second comment period and public hearing, and at final adoption.

Comments were received regarding the location of the first public hearing for the proposed permanent rules.

Response: According to the Environmental Protection Agency tracking website for UIC Class VI permits, there are five (5) possible projects in Indiana. These projects, as well as the pilot project, are located across Indiana. Knowing that the department would likely receive substantive comments regarding the proposed permanent rule, a second public hearing and public comment period would be triggered under IC 14-22-2-24 and IC 14-22-2-26. The commission and the department determined that having one (1) of the public hearings in the northern region of the state would be beneficial, due to there being at least two (2) proposed projects in that region of the state. The second public hearing will be held in a central location.

There are multiple methods by which persons may submit comments regarding the proposed permanent rules. Every comment submitted, whether in person, electronically, via US Mail, or via telephone, is considered equally by the department during the rulemaking process as is required under IC 4-22-2-27. IC 4-22-2-27 states, "The individual or group of individuals who will finally adopt the rule under section 29 of this chapter shall fully consider comments received by the agency during each public comment period and comments received at the public hearings required by sections 23, 24, and 26 of this chapter and may consider any other information before adopting the rule.

Attendance at the public hearing or review of a written record or summary of the public hearing is sufficient to constitute full consideration." The methods by which a person may make a comment are set forth in the notice of public comment period, see below:

"The commission is soliciting public comment on the proposed interim rule. Comments may be submitted in one of the following ways:

(1) By the commission's rulemaking docket at: <https://www.in.gov/nrc/rules/rulemaking-docket/>.

(2) By mail or common carrier to the following address:

LSA Document #25-162 Carbon Sequestration Projects

Aaron Bonar

Indiana Government Center North

100 North Senate Avenue, Room N103

Indianapolis, IN 46204

(3) By email to ABonar@nrc.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(4) Attend scheduled public hearing."

Additionally, IC 4-22-2-17 requires public hearings to be remote webcast. The public hearing notice states as follows: "The public may attend the commission meeting in person or join using the information posted at <https://www.in.gov/nrc/rules/rulemaking-docket/>." The information regarding attending the meeting remotely can be found at that link before the meeting is scheduled to start. These notices were published on April 9, 2025, more than thirty (30) days before the public hearing. The meeting location was not changed after the notice was published, or an updated notice would have been required.

Finally, when more than one (1) community may be affected by the proposed permanent rules and the commission and the department do not choose the location of public hearings based on the location of one (1) potential project.

The rulemaking process is statutory and can be found in its entirety at IC 4-22-2. The department does not have the authority to make changes to the rulemaking process.

Comments were received regarding extending the public comment period for the proposed permanent rules.

Response: Under IC 4-22-2-24 and IC 4-22-2-26, the department is required to have a second public comment period and second public hearing if substantive comments are received during the first public comment period or public hearing, or both. The department has received substantive comments regarding the proposed permanent rules during the first public comment period and public hearing; therefore, a second public comment period and public hearing are required under IC 4-22-2-24 and IC 4-22-2-26.

Comments were received regarding local ordinances and local control.

Response: The issue here is one (1) of preemption. Preemption occurs when a higher level of government supersedes the authority of the lower level of government. Because Indiana does not currently have primary enforcement authority, or primacy, over Class VI wells, the regulations of the EPA and PHMSA preempt the state regarding safety, construction, materials, etc. Any category of regulation covered by the EPA or PHMSA preempts the state's ability to enact regulations regarding those categories, unless Indiana obtains primacy over Class VI wells.

Preemption. The state enacted statutes under IC 14-39, which allow carbon sequestration projects in the state and carbon dioxide transmission pipelines. The Indiana General Assembly created a duty for the department to adopt rules to supplement IC 14-39. State law preempts local control. Local governments may adopt ordinances under the authority provided to local governments under the Indiana Code. However, if a local ordinance conflicts with state or federal laws or regulations, the ordinance is invalid and unenforceable on its face due to state and federal preemption.

Comments were received regarding delaying adopting the proposed permanent rules.

Response: The Indiana General Assembly established a duty for the department to adopt rules regarding carbon dioxide transmission pipelines under IC 14-39-1, and carbon sequestration projects under IC 14-39-2. The proposed permanent rules supplement what appears in the Indiana Code regarding the authority provided by the Indiana General Assembly regarding carbon dioxide transmission pipelines and carbon sequestration. Delaying the adoption of the rules does not change the duty of the department or the authority provided to the department by the Indiana General Assembly.

Comments were received requesting language regarding public access to certain documents for specific projects.

Response: Indiana's public access law can be found at IC 5-14-3. There is not a need to add additional public access requirements to the rules which would be duplicative of IC 5-14-3.

Comments were received regarding the department denying permits.

Response: The department may deny a carbon dioxide transmission pipeline certificate of authority under IC 14-39-1, a carbon sequestration project permit under IC 14-39-2, or any subsequent permit under the proposed permanent rules if the applicant does not submit a completed application or any other reason set out in the Indiana Code or the proposed permanent rule. The department does not have the authority to deny a permit simply because certain residents in a location are opposed to the permit. The Indiana Code does not grant the department that authority. If there are safety concerns, the EPA, PHMSA, or both would be responsible for denying any required permit.

Comments were received regarding who is responsible for damages if there is a problem with a carbon dioxide transmission pipeline, or a carbon sequestration project.

Response: While carbon dioxide transmission pipeline companies and storage operators are required to obtain and maintain financial responsibility, a court of law would be required to determine liability if an issue arose.

Comments were received regarding spelling out in the rules what state and federal permits are required, as well as the specific state and federal requirements outside of permitting in the rules.

Response: The Indiana Administrative Code is meant to be a supplement to the Indiana Code. The Indiana Code controls when looking to interpretation and meaning. Additionally, IC 4-22-2-19.5(a)(3) requires that administrative rules be written to "avoid duplicating standards found in state or federal laws." Based on the requirement of the Indiana Code, and the purpose of the Indiana Administrative Code, it would be improper to duplicate the state and federal laws and permit requirements into the proposed permanent rules. These laws, regulations, and requirements appear in state or federal law or regulations and may not be duplicated into the proposed permanent rule.

Comments were received regarding removing imposed deadlines and amending the proposed permanent rules regarding the application process.

Response: The deadlines placed in the rules were thoroughly vetted by the department and were found to be reasonable. Additionally, the application process established by the proposed permanent rules is common to the department and in line with how the department processes applications across the divisions.

Comments were received regarding the working group that developed the proposed permanent rules and posting information about the working group on the department's website. Additionally, there were comments about how the working group was chosen.

Response: The department worked to draft rules with an external working group consisting of members of the industry, landowners, and other state agencies that may be involved in permitting carbon sequestration projects and carbon dioxide transmission pipelines. The department also established an internal working group made up of department employees to manage drafting the rules, discussing the different suggestions of the external working group, and compiling the proposed permanent rules. The proposed permanent rules are the product of both the external and internal working groups. The persons included in the working group were those who would be directly affected by the proposed permanent rules, which encompass the duties of the department under the Indiana Code. The department often seeks input from special interest groups and potential interested parties when developing proposed rules. The rules then go through the public rulemaking process under IC 4-22-2.

Comments were received regarding clarification of certain points within the proposed permanent rule to ensure ease of compliance by applicants.

Response: The definition of “transporting carbon dioxide” and the corresponding applicability provision 312 IAC 30-5-1 were modified to clarify that a carbon dioxide transmission pipeline certificate of authority is not needed if the injection well is considered “in the fence”, or inside the boundaries of contiguous property owned by the applicant. 312 IAC 30-5-4(c) was amended to state that the applicant is responsible for requirements applicable to the applicant, not requirements of designated individuals, contractors, subcontractors, or affiliates. 312 IAC 30-6-3(a)(8) was reworded to state the purpose of the provision, which is that if a permit holder knows of the issue and does not immediately notify the department, suspension or revocation is possible. Additionally, 312 IAC 30-6-3(e) was amended to say, “immediately stop injecting carbon dioxide.”. This will allow storage operators to continue operating the storage facility in compliance with the Class VI permit.

Comments were received outside the scope of the proposed permanent rule, namely the validity of carbon sequestration projects, the 45Q federal tax credit, specifics regarding possible projects, primacy, and transporting carbon dioxide on the highways by truck.

Response: The proposed permanent rule does not deal with the following topics: (1) whether there is a need for carbon sequestration; (2) the 45Q federal tax credit; (3) specifics regarding possible projects; (4) primacy; (5) transporting carbon dioxide on the highways by truck. Currently, the department is moving forward only with the proposed permanent rule in the rule package. There may be changes if circumstances change in the future, but at this time, the proposed permanent rule contains the entirety of the provisions the department is statutorily required to regulate under IC 14-39-1 and IC 14-39-2. Because the Indiana General Assembly passed P.L.150-2011, P.L.163-2022, and P.L.158-2023, the department is required to adopt rules for carbon sequestration in Indiana. The scope of the proposed permanent rule does not include these topics.

REQUEST FOR PUBLIC COMMENT

The commission, in coordination with the department, is soliciting public comment on the proposed interim rule. Comments may be submitted in one of the following ways:

(1) By the commission's rulemaking docket at: <https://www.in.gov/nrc/rules/rulemaking-docket/>.

(2) By mail or common carrier to the following address:

LSA Document #25-162 Carbon Sequestration Projects
Whitney Wampler
Natural Resources Commission
C/O Department of Natural Resources, Legal Division
Indiana Government Center South
402 West Washington Street, Room W261
Indianapolis, IN 46204

(3) By email to Wwampler@dnr.in.gov. PLEASE NOTE: Email comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.

(4) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than **[date to be entered by publisher after agency confirmation]**.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Natural Resources Commission, C/O Department of Natural Resources, Legal Division, Indiana Government Center South, 402 West Washington Street, Room W261, Indianapolis, IN 46204, and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the department of natural resources' office.

This notice is the second of two (2) thirty (30) day periods in which the public may comment on the proposed rule. Following this second public comment period, the commission, in coordination with the department, may adopt a version of the proposed rule that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

EXPLANATION OF DIFFERENCES IN PROPOSED RULE

Due to comments received during the first public comment period and first public hearing, the department has made substantive changes to the proposed permanent rule under IC 4-22-2-29(c)(1). The first change appears under 312

IAC 30-2-7 by amending the definition of “transporting carbon dioxide” to exclude movement of carbon dioxide to a carbon dioxide injection well inside the boundaries of contiguous property owned by the applicant or under IC 14-39-1-4.5. The corresponding applicability provision, 312 IAC 30-5-1, was also modified to clarify that a carbon dioxide transmission pipeline certificate of authority is not needed if the injection well is considered “in the fence”, or inside the boundaries of contiguous property owned by the applicant or under IC 14-39-1-4.5. 312 IAC 30-5-4(c) was amended to state that the applicant is responsible for requirements applicable to the applicant, not requirements of designated individuals, contractors, subcontractors, or affiliates. Under 312 IAC 30-5-7(a)(6), subsurface facilities were added to surface facilities to ensure proper mapping of the area. 312 IAC 30-6-2.5 was added to ensure explicit explanation of the Indiana department of transportation’s state and federal statutory requirements regarding disposition of property. 312 IAC 30-6-3(a)(8) was reworded to state the purpose of the provision, which is that if a permit holder knows of the issue and does not immediately notify the department, suspension or revocation is possible. Additionally, 312 IAC 30-6-3(e) was amended to say, “immediately stop injecting carbon dioxide.”. This will allow storage operators to continue operating the storage facility in compliance with the Class VI permit.

PROPOSED RULE

SECTION 1. 312 IAC 30 IS ADDED TO READ AS FOLLOWS:

ARTICLE 30. UNDERGROUND STORAGE OF CARBON DIOXIDE

Rule 1. Applicability

312 IAC 30-1-1 Applicability

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 1. (a) This article provides definitions that apply to this article and are in addition to those definitions set forth in IC 14.

(b) Except as otherwise provided in this article or under IC 14-39, this article applies to the permanent underground storage of carbon dioxide. (*Natural Resources Commission; 312 IAC 30-1-1*)

Rule 2. Definitions

312 IAC 30-2-1 "Carbon dioxide stream" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 13-11-2-99; IC 14-39

Sec. 1. (a) "Carbon dioxide stream" means carbon dioxide that is:

- (1) captured from an emission source or the atmosphere; plus**
- (2) incidental associated substances derived from the source materials and capture process; and**
- (3) any substance added to the carbon dioxide to enable or improve the injection process.**

(b) The term under subsection (a) does not include a carbon dioxide stream that is considered hazardous waste as defined by IC 13-11-2-99(c). (*Natural Resources Commission; 312 IAC 30-2-1*)

312 IAC 30-2-2 "Class VI well" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 2. "Class VI well" means a well regulated by the United States Environmental Protection Agency under a UIC Class VI permit. (*Natural Resources Commission; 312 IAC 30-2-2*)

312 IAC 30-2-3 "Confining zone" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 3. "Confining zone" means:

- (1) a geologic formation;**
- (2) a group of geologic formations; or**
- (3) part of a geologic formation;**

capable of limiting the movement of the carbon dioxide stream above an injection zone. *(Natural Resources Commission; 312 IAC 30-2-3)*

312 IAC 30-2-4 "Department" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 4. "Department" means the department of natural resources. *(Natural Resources Commission; 312 IAC 30-2-4)*

312 IAC 30-2-5 "Mechanical integrity test" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 5. "Mechanical integrity test" means a test performed on a Class VI well:

- (1) to confirm the Class VI well maintains internal and external mechanical integrity;**
- (2) that can measure the adequacy of the Class VI well construction; and**
- (3) that can detect a problem of a Class VI well system, if applicable.**

(Natural Resources Commission; 312 IAC 30-2-5)

312 IAC 30-2-6 "Responsible officer" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39-1-4

Sec. 6. "Responsible officer", for purposes of IC 14-39-1-4, includes the following:

- (1) An authorized officer of a corporation.**
- (2) A manager of a limited liability company or, if the limited liability company is managed by another company, an authorized officer of the managing company.**
- (3) A partner in a general, limited, or limited liability partnership or, if the partner is an entity, an authorized officer of the general, limited, or limited liability partnership.**
- (4) An individual authorized by another entity not included under subdivisions (1) through (3) to sign for and bind the person.**

(Natural Resources Commission; 312 IAC 30-1-6)

312 IAC 30-2-7 "Transporting carbon dioxide" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 7. (a) "Transporting carbon dioxide" means the movement of carbon dioxide to a carbon dioxide injection well located outside the storage facility for which a certificate of authority for a carbon dioxide transmission pipeline is required.

(b) The term under subsection (a) includes a carbon dioxide transmission pipeline that crosses a parcel above pore space that is:

- (1) a public right-of-way; or**
- (2) acquired by:**
 - (A) eminent domain; or**
 - (B) an integration order.**

(c) The term under subsection (a) does not include movement of carbon dioxide to a carbon dioxide injection well inside the boundaries of contiguous property owned by an applicant or under IC 14-39-1-4.5.

(Natural Resources Commission; 312 IAC 30-1-7)

312 IAC 30-2-8 "Underground Injection Control (UIC) program" defined

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 8. "Underground Injection Control (UIC) program" refers to the program carried out by:

(1) the United States Environmental Protection Agency; or

(2) an approved state or tribe;

under the Safe Drinking Water Act to regulate underground injection. (*Natural Resources Commission; 312 IAC 30-2-8*)

Rule 3. Agreements

312 IAC 30-3-1 Participation; proposed storage facility

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 14-39-2-5

Sec. 1. An applicant for a carbon sequestration project permit and a pore space owner may enter into an agreement for the pore space owner to participate in the proposed storage facility in a way that is compatible with the correlative rights of the applicant and other pore space owners within the proposed storage facility. (*Natural Resources Commission; 312 IAC 30-3-1*)

Rule 4. Preapplication Coordination

312 IAC 30-4-1 Preapplication coordination

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 14-39-2-5

Sec. 1. (a) A responsible officer applying for a:

(1) carbon dioxide transmission pipeline certificate of authority; or

(2) carbon sequestration project permit;

may engage the department in preapplication coordination with the division of reclamation before submitting an application under this article.

(b) A statement made by the department to an applicant during preapplication coordination is nonbinding. (*Natural Resources Commission; 312 IAC 30-4-1*)

Rule 5. Carbon Dioxide Transmission Pipelines

312 IAC 30-5-1 Applicability

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39-1

Sec. 1. An applicant for a carbon sequestration project permit under this article is not required to obtain a carbon dioxide transmission pipeline certificate of authority under IC 14-39-1 or this article if the applicant is transporting carbon dioxide to an injection well so long as the carbon dioxide injection well is located on a parcel of property that is:

(1) owned by the applicant; and

(2) inside the boundaries of contiguous property owned by the applicant;

so that the applicant is only transporting carbon dioxide continuously on property owned by the applicant or under IC 14-39-1-4.5. (*Natural Resources Commission; 312 IAC 30-5-1*)

312 IAC 30-5-2 Application; certificate of authority

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 8-1-22.6; IC 14-39-1-4

Sec. 2. (a) A responsible officer for a carbon dioxide transmission pipeline certificate of authority shall submit to the department:

- (1) a complete application under IC 14-39-1-4;
- (2) the name, address, telephone number, and email address of the applicant;
- (3) a map of the proposed pipeline route; and
- (4) a statement agreeing to give the department the plans and official pipeline route after the pipeline is installed;

to obtain a carbon dioxide transmission pipeline certificate of authority.

(b) An application for a certificate of authority under this section must include a plan for the pipeline that is signed by a professional engineer. (*Natural Resources Commission; 312 IAC 30-5-2*)

312 IAC 30-5-3 Financial ability to construct, operate, and maintain pipeline

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 3. (a) An applicant for a carbon dioxide transmission pipeline certificate of authority shall illustrate a financial ability to construct, operate, and maintain a carbon dioxide transmission pipeline by giving the department documentation proving the applicant obtained the insurance required under subsections (b) and (c).

(b) An applicant shall provide evidence to the department that the applicant maintains liability insurance in the following liability coverage amounts during the construction of a pipeline:

- (1) For a pipeline not more than twenty (20) miles:
 - (A) seven hundred thousand dollars (\$700,000) for each person; and
 - (B) five million dollars (\$5,000,000) for each occurrence.
- (2) For a pipeline greater than twenty (20) miles:
 - (A) seven hundred thousand dollars (\$700,000) for the first twenty (20) miles; plus
 - (B) twelve thousand five hundred dollars (\$12,500) for each additional mile, or part of an additional mile, for each person; and
 - (C) five million dollars (\$5,000,000) for the first twenty (20) miles; plus
 - (D) twelve thousand five hundred dollars (\$12,500) for each additional mile, or part of an additional mile, for each occurrence.

(c) In addition to the amounts required under subsection (b), an applicant shall provide a certificate of insurance to the department as proof the applicant maintains liability insurance in the following minimum liability coverage amounts while constructing, operating, and maintaining a pipeline:

- (1) at least:
 - (A) one million dollars (\$1,000,000) for each person; and
 - (B) five million dollars (\$5,000,000) in the aggregate; and
- (2) at least:
 - (A) one million dollars (\$1,000,000) for each occurrence; and
 - (B) five million dollars (\$5,000,000) in the aggregate.

(d) An applicant shall not cancel coverage required under subsections (b) and (c) during the construction of a pipeline.

(e) An applicant shall not cancel or otherwise allow coverage to lapse as required under subsection (c) while operating and maintaining a pipeline.

(f) The applicant shall provide a certificate of insurance for the coverage required under subsections (b) and (c):

- (1) not later than December 31 each year; or
- (2) not later than thirty (30) days before the required coverage under subsections (b) and (c) expires; whichever is earlier.

(g) An insurer that issues a certificate of public liability insurance to an applicant for a certificate of authority shall notify the department if a change is made to the coverage required under this section.

(h) If the required length of a pipeline increases, an applicant shall obtain the proper insurance coverage required under subsection (b). If the required length of the pipeline decreases, the applicant may obtain decreased insurance coverage under subsection (b). The applicant shall notify the department of the change to coverage under this subsection not later than fourteen (14) days after the change to the required coverage occurs. *(Natural Resources Commission; 312 IAC 30-5-3)*

312 IAC 30-5-4 Managerial and technical ability to construct, operate, and maintain pipeline

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 4. (a) An applicant for a carbon dioxide transmission pipeline certificate of authority shall illustrate a managerial and technical ability to construct, operate, and maintain a carbon dioxide transmission pipeline under this section by providing evidence to the department that an individual designated by the applicant, a contractor or subcontractor of the applicant, or an affiliate of the applicant, contractor, or subcontractor to manage the construction of the pipeline:

(1) holds a bachelor's or master's degree in engineering, physics, chemistry, geology, or other physical science and has at least ten (10) years of experience in:

- (A) carbon dioxide;
- (B) hazardous liquid;
- (C) hydrocarbon refining;
- (D) natural gas transmission pipeline design or construction; or
- (E) hydrocarbon transmission pipeline design or construction; or

(2) has at least fifteen (15) years of experience in:

- (A) carbon dioxide;
- (B) hazardous liquid;
- (C) hydrocarbon refining;
- (D) natural gas transmission pipeline design or construction; or
- (E) hydrocarbon transmission pipeline design or construction.

(b) If an individual under subsection (a) leaves from the applicant's employment before the department issues a certificate of authority and the applicant does not designate another individual under subsection (a), the applicant shall notify the department that the individual has left immediately after the applicant is notified about the departure. The applicant shall notify the department not more than fourteen (14) days after designating a replacement under subsection (a).

(c) An applicant using a contractor, a subcontractor, or an affiliate does not:

- (1) eliminate applicable requirements; or
- (2) reduce liability;

for the applicant under the Indiana Code or this article. *(Natural Resources Commission; 312 IAC 30-5-4)*

312 IAC 30-5-5 Experience to construct, operate, and maintain pipeline

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 5. An applicant for a carbon dioxide transmission pipeline certificate of authority, a contractor or subcontractor of the applicant, or an affiliate of the applicant, contractor, or subcontractor shall illustrate that the applicant has the requisite experience to construct, operate, and maintain a carbon dioxide transmission pipeline by providing evidence to the department of the following:

- (1) The previous experience of the applicant to construct, operate, and maintain a pipeline.
- (2) The applicant's history constructing, operating, or maintaining projects in the pipeline and infrastructure industries.
- (3) A description of a judgment entered against the applicant for a civil or an administrative complaint for violating a state or federal environmental protection law that imposed a fine or civil penalty of more than ten thousand dollars (\$10,000) on the applicant not more than five (5) years before the date the application is submitted.

- (4) The experience of the applicant developing a project of similar size and complexity to the proposed pipeline.
- (5) The experience of the affiliated entities of the applicant that will be advising or involved in constructing, operating, or maintaining the pipeline.
- (6) The insurance requirements under section 3 of this rule.

(Natural Resources Commission; 312 IAC 30-5-5)

312 IAC 30-5-6 Attestation; compliance with federal, state, and local law

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 6. (a) An applicant for a carbon dioxide transmission pipeline certificate of authority shall:

- (1) submit to the department a sworn statement stating the person intends to comply with federal, state, and local laws; and
- (2) provide the required permits to the department after the permits are issued.

(b) An applicant under subsection (a) shall submit to the department a compliance plan that must include a description of the processes to ensure compliance with all applicable federal, state, and local laws regarding carbon dioxide transmission pipeline company employees and the public, including regulations issued by any government agency with jurisdiction over pipelines. *(Natural Resources Commission; 312 IAC 30-5-6)*

312 IAC 30-5-7 Mapping

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 8-1-22.6-10; IC 14-39

Sec. 7. (a) An applicant for a carbon dioxide transmission pipeline certificate of authority shall submit to the department at least one (1) map that depicts the:

- (1) proposed location and route of the carbon dioxide transmission pipeline;
- (2) length and diameter of the proposed pipeline;
- (3) pipeline corridor not more than five hundred (500) feet wide on each side of the proposed pipeline location;
- (4) proposed width of a pipeline easement;
- (5) proposed width of an accompanying pipeline construction easement;
- (6) location of surface facilities and subsurface facilities for the pipeline;
- (7) legal description of the proposed pipeline identifying the section, township, range, and county;
- (8) location of each:
 - (A) high consequence area as defined under 49 CFR 192* and 49 CFR 195*; and
 - (B) unusually sensitive area as defined under 49 CFR 195*;within the proposed carbon dioxide transmission pipeline corridor;
- (9) location of each:
 - (A) railroad;
 - (B) public right-of-way;
 - (C) existing pipeline easement; and
 - (D) existing electric transmission line easement within the proposed pipeline corridor under subdivision (3); and
- (10) existing property lines and names of persons that own the property through which the pipelines cross, and, if applicable, the property owners included in the list provided to the Indiana utility regulatory commission under IC 8-1-22.6-10.

(b) Information submitted to the department under this section must state the rights related to any proposed easement, including the right to:

- (1) keep the easement clear of trees and brush; or
- (2) prohibit, restrict, or require conditions for constructing roads and farm crossings over the easement.

***These documents are incorporated by reference. Copies may be obtained from the Government Publishing Office, www.gpo.gov, or are available for review at the Natural Resources Commission, Indiana Government Center North, 100 North Senate Avenue, Room N103, Indianapolis, IN 46204. (Natural Resources Commission; 312 IAC 30-5-7)**

312 IAC 30-5-8 Review; application for certificate of authority

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 8-23-26; IC 14-39-1-4; IC 36-9-42

Sec. 8. (a) Not later than sixty (60) days after receiving an application for a certificate of authority, the department shall review the application and determine whether the application is incomplete or inaccurate, or both. Subject to subsection (c), if the department determines the application is incomplete or inaccurate, or both, the department shall return the application to the applicant, informing the applicant in writing that they are entitled to file a corrected application. If the department determines the application is complete and accurate, the department shall notify the applicant of the:

(1) determination; and

(2) date, time, and location of the public information meeting to be held under IC 14-39-1-4.

The department shall schedule the public information meeting under subdivision (2) not later than one hundred twenty (120) days after determining whether the application is complete and accurate.

(b) If the department fails to act on an application not later than ninety (90) days after a public information meeting under subsection (a) or (d), the application is considered approved by the department.

(c) The department shall process a corrected application in the same way an initial application is processed.

(d) The department shall schedule an additional public information meeting as prescribed under subsection (a) if a material change is made to the application that is not:

(1) a minor modification under section 10 of this rule;

(2) a substantive change made due to comments received during a previous public information meeting under subsection (a) or this subsection; or

(3) a federal agency, a state agency, or another unit of government requires the change under IC 8-23-26, IC 36-9-42, or another applicable state or federal law.

The department shall expedite reviewing changes to an application for a certificate of authority under this subsection. (Natural Resources Commission; 312 IAC 30-5-8)

312 IAC 30-5-9 Use, occupy, and construct; right-of-way

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 8-1-26-7; IC 8-23; IC 14-39-1; IC 36-9-42

Sec. 9. (a) Before a person may obtain a certificate of authority under IC 14-39-1 to use, occupy, and construct pipeline facilities in a designated right-of-way, the person shall obtain the proper authorizations and permits from a state agency or another unit of government that has jurisdiction over the right-of-way under IC 8-23-4.

(b) The authority to use and occupy a designated public right-of-way under this rule is subject to compliance with applicable state and federal requirements for facilities, as defined by IC 8-1-26-7, which occupy rights-of-way, including IC 8-23-6-6, IC 8-23-26, or IC 36-9-42. (Natural Resources Commission; 312 IAC 30-5-9)

312 IAC 30-5-10 Certificate of authority; modification; amendment

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 8-23-26; IC 14-39; IC 36-9-42

Sec. 10. (a) On the carbon dioxide transmission pipeline company's request, the department may modify a carbon dioxide transmission pipeline certificate of authority to make a minor modification under

subsection (b) without requiring the storage operator to file an application to amend the carbon sequestration project permit.

(b) A minor modification includes the following:

(1) To correct a typographical error.

(2) To require more frequent monitoring or reporting by a pipeline company.

(3) To change an interim compliance date in a schedule of compliance that:

(A) is not more than one hundred twenty (120) days after the date specified by the existing certificate of authority; and

(B) does not interfere with reaching the required final compliance date.

(4) To change the location of a pipeline by not more than one hundred (100) feet on each side of the proposed pipeline location.

(5) A change to the length of a pipeline because of a change made by a pipeline company under subdivision (4).

(c) Except as provided in subsection (d), a modification to a certificate of authority not processed as a minor modification under subsection (a) must be filed as an application to amend an existing certificate of authority. A pipeline company may file an application to amend a certificate of authority regarding the following:

(1) A change in the carbon dioxide stream to be injected, including the quantity and type.

(2) Except as otherwise provided under subsection (b)(4) or (b)(5), a change to the diameter, length, or location of a pipeline.

(d) A pipeline company is not required to file an application to amend an existing certificate of authority if the pipeline company is required by a state agency or another unit of government to relocate the carbon dioxide transmission pipeline under IC 8-23-26, IC 36-9-42, or another applicable state or federal law. *(Natural Resources Commission; 312 IAC 30-5-10)*

312 IAC 30-5-11 Certificate of authority; transfer

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 4-21.5; IC 14-39-2-4

Sec. 11. (a) A carbon dioxide transmission pipeline company issued a carbon dioxide transmission pipeline certificate of authority by the department, with the transferee, may apply to the department for a transfer of a certificate of authority if the transferee meets the same underlying qualifications of the pipeline company.

(b) A pipeline company and transferee under subsection (a) shall notify the department of the intent to apply for a transfer at least one hundred twenty (120) days before the intended transfer date. An application for a transfer must be completed as prescribed by the department, including the information required under subsection (c).

(c) A pipeline company and transferee applying for a certificate of authority shall submit the following with an application for a transfer:

(1) Proof the transferee meets the same underlying qualifications as the pipeline company.

(2) The signature of the pipeline company representative and transferee.

(3) A statement verifying the information submitted is accurate and complete to the best of the knowledge of the pipeline company and transferee.

(4) A statement describing how the transferee will construct, operate, and maintain the proposed pipeline under applicable federal, state, and local law, including:

(A) safety regulations and rules governing constructing, operating, and maintaining the carbon dioxide transmission pipeline; and

(B) related facilities and equipment, to ensure the safety of the transferee's employees and the public.

A transferee shall include a copy of a federal, state, or local regulatory agency permit with the statement under this subdivision.

(5) A statement that the interests of a mineral lessee or mineral owner will not be adversely affected by the pipeline.

(6) An agreement between the transferee and mineral lessee or mineral owner under IC 14-39-2-4.

(7) Documentation regarding the following:

(A) A legal proceeding required under Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the transferee's report under Form 10-K.

(B) A description of a judgment entered against the transferee for a civil or an administrative complaint for violating a state or federal environmental protection law that imposed a fine or civil penalty of more than ten thousand dollars (\$10,000) on the transferee not more than five (5) years before the date the application was submitted.

(C) A description of a conviction entered against the transferee for violating a state or federal environmental protection law not more than five (5) years before the application was submitted.

(d) If the department determines the application for a transfer is complete, the department shall notify the transferee, and the transferee shall do the following:

(1) Not later than sixty (60) days after receiving the notice under this subsection:

(A) place a copy of the application for the transfer in a public library located in each county where the pipeline is proposed to be located for public inspection; and

(B) using the method under 312 IAC 29-5-2(a), notify the following:

(i) Each unit of government where a storage facility, monitoring well, or pipeline is located.

(ii) An owner of a parcel of real estate adjacent to land for which the use is incidental to a pipeline.

(iii) An owner of a parcel of real estate that may be, or is reasonably known to be, affected by injecting carbon dioxide.

(iv) An owner of a parcel of real estate that may be, or is reasonably known to be, affected by constructing a new road, or improving or using an existing road, to gain access to the pipeline.

(2) Provide the department proof that the notice under this subsection was published in accordance with 312 IAC 29-5-2(c) not later than thirty (30) days after publication.

(3) Provide the department proof the notice was delivered to a person under subdivision (1)(B).

(e) Not later than ninety (90) days after receiving proof the notice under subsection (b) was published, the department shall notify the applicant in writing that the department either approves or denies the transfer.

(f) If the department determines:

(1) the Indiana general assembly or federal government enacted a statute or adopted a regulation that requires denying a transfer;

(2) the applicant failed to provide the department with a complete application for a transfer for one (1) year after initially submitting the application;

(3) the department has concerns about the character and fitness of the transferee based on the information under subsection (c)(7);

(4) the transferee fails to satisfy the financial, managerial, and technical requirements of this rule;

(5) the transferee did not complete the requirements under subsection (c);

(6) the transferee demonstrated a pattern of willful violations that resulted in damage to the environment;

(7) the transferee is a person with a pending notice of violation or civil penalty. If this finding is made, however, the transferee is not disqualified from receiving the transfer if:

(A) the violation was, or is in the process of being, corrected to the satisfaction of the department; or

(B) the transferee filed and is pursuing administrative review of the violation under IC 4-21.5; or

(8) the transferee had a certificate of authority revoked;
the department shall deny the application.

(g) If an application for a transfer is filed and there is a pending notice of violation:

(1) the transferor that has a pending notice of violation, and its surety, are liable to abate the violation and satisfy the assessed penalty;

(2) the transferee may accept liability to perform the abatement of the violation, and the transferor is required to satisfy the assessed penalty; or

(3) a transferee of a pipeline certificate of authority is liable to abate the violation and for the assessed penalty, after transfer of the pipeline certificate of authority.

The department may waive a penalty for a notice of violation in writing not later than ninety (90) days after the transfer if the department determines the transferee is acting in good faith to abate the violation.

(h) The department shall notify the transferor and transferee in writing that the department approves or denies the transfer.

(i) A transfer is effective on the date the written notice approving the transfer under subsection (h) is issued by the department.

(j) A determination under this section is subject to review and appeal under IC 4-21.5. (*Natural Resources Commission; 312 IAC 30-5-11*)

312 IAC 30-5-12 Certificate of authority; suspension; revocation

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 4-21.5; IC 14-39

Sec. 12. (a) The department may initiate a proceeding to suspend or revoke a carbon dioxide transmission pipeline certificate of authority for the following reasons:

(1) The certificate of authority was issued due to fraud or intentional misrepresentation by the carbon dioxide transmission pipeline company.

(2) The pipeline company failed to start construction not later than two (2) years after the department issues the certificate of authority.

(b) The pipeline company may request one (1) extension of the certificate of authority under subsection (a)(2) for two (2) years.

(c) If the pipeline company does not remedy a violation not later than (30) days after the violation is issued, the department may suspend or revoke the certificate of authority.

(d) A determination under this section is subject to review and appeal under IC 4-21.5. (*Natural Resources Commission; 312 IAC 30-5-12*)

Rule 6. Carbon Sequestration Project Permit

312 IAC 30-6-1 Permit application

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 14-8-2-225; IC 14-39-2-5

Sec. 1. (a) A responsible officer applying for a carbon sequestration project permit under IC 14-39-2 shall submit a complete carbon sequestration project permit application to the department that includes the following:

(1) The application requirements under IC 14-39-2-5, including the information or documentation submitted by the responsible officer to the United States Environmental Protection Agency (U.S. EPA) with the UIC Class VI permit demonstrating the following:

(A) The applicant has the financial ability to construct, operate, and maintain a carbon sequestration project. The applicant shall give the department a copy of each financial responsibility instrument submitted to the U.S. EPA with the UIC Class VI permit.

(B) The applicant has the managerial and technical ability to construct, operate, and maintain a carbon sequestration project. The applicant demonstrates this by providing to the department the following:

- (i) An area of review and corrective action plan.
- (ii) A testing and monitoring plan.
- (iii) A well plugging plan.
- (iv) A postinjection site care and closure plan.
- (v) A corrosion monitoring and prevention program.
- (vi) An emergency and remedial response plan.
- (vii) Construction details.

(C) The applicant, a contractor or subcontractor of the applicant, or an affiliate of the applicant, contractor, or subcontractor have the requisite expertise to construct, operate, and maintain a carbon sequestration project. An applicant shall specify the components to be handled by:

- (i) the applicant; and
- (ii) a contractor, a subcontractor, or an affiliate.

(D) Information or documentation describing the scope of the proposed carbon sequestration project.

(2) A copy of a federal, state, or local regulatory agency permit required in addition to the UIC Class VI permit with the required statement under IC 14-39-2-5(e)(7).

(3) The name, mailing address, and telephone number of the storage facility and applicant.

(4) The location of each proposed monitoring well and carbon dioxide injection well.

(5) Whether the storage facility is located on Native American land, a historic or an archaeological site, or a public property, as defined by IC 14-8-2-225.

(6) The quantity and quality of carbon dioxide proposed to be injected and stored in the storage facility.

(7) Documentation regarding the following:

(A) A legal proceeding required under Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the applicant's report under Form 10-K.

(B) A description of a judgment entered against the applicant for a civil or an administrative complaint for violating a state or federal environmental protection law that imposed a fine or civil penalty of more than ten thousand dollars (\$10,000) on the applicant not more than five (5) years before the date the application is submitted.

(C) A description of a conviction entered against the applicant for violating a state or federal environmental protection law not more than five (5) years before the application is submitted.

(8) Whether the application is an initial application under this section or an application to amend an existing carbon sequestration project permit under section 5 of this rule.

(b) The department may not issue a carbon sequestration project permit under this article if the applicant does not submit a complete application for a carbon sequestration project permit under subsection (a).

(c) The department may issue a carbon sequestration project permit under this article to an applicant that has not received an authorization to inject on the UIC Class VI permit issued by the U.S. EPA. *(Natural Resources Commission; 312 IAC 30-6-1)*

312 IAC 30-6-2 Permit issuance

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 4-21.5; IC 14-39-2

Sec. 2. (a) Not later than ninety (90) days after receiving an application under section 1 of this rule, the department shall review the submitted application and determine whether the application is complete and accurate.

(b) If the department determines an application is incomplete or inaccurate, or both, the department shall:

- (1) notify the applicant not later than five (5) business days after making the determination that the application contains deficiencies; and
- (2) give the applicant an opportunity to remedy the deficiencies not later than fifteen (15) business days after receiving the notice under this subsection before returning the application to the applicant.

After the department gives the applicant an opportunity to remedy the deficiencies under subdivision (2), the department shall return the application to the applicant. If the applicant fails to remedy the deficiencies not later than fifteen (15) business days after receiving the notice under this subsection, the department may deny the application.

(c) The department may deny a carbon sequestration project permit if it determines any of the following:

- (1) The Indiana general assembly or federal government enacted a statute or adopted a regulation that requires denial.
- (2) The applicant failed to give the department a complete application for a carbon sequestration project permit for at least one (1) year after initially submitting the application.
- (3) The department has concerns about the character and fitness of the applicant based on the information provided to the department under section 1(a)(7) of this rule.
- (4) The applicant fails to satisfy the financial, managerial, and technical requirements under 312 IAC 30-5-3 through 312 IAC 30-5-5 and this rule.

(d) A determination under this section is subject to review and appeal under IC 4-21.5. (*Natural Resources Commission; 312 IAC 30-6-2*)

312 IAC 30-6-2.5 Disposition of state owned, operated, or managed property

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 4-21.5; IC 13; IC 14-39-2

Sec. 2.5. (a) An applicant should contact a state agency who owns, operates, or manages property the applicant wishes to include in the pore space as early as possible in the application process to determine whether there are property disposition requirements for the state agency.

(b) An applicant who wishes to acquire pore space beneath property owned by the state may:

- (1) not be able to obtain an easement for use of the pore space; and
- (2) be required to enter into another type of contractual agreement, including a lease, for use of the pore space.

(*Natural Resources Commission; 312 IAC 30-6-2.5*)

312 IAC 30-6-3 Permit suspension; revocation

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 4-21.5; IC 13; IC 14-39-2

Sec. 3. (a) The department may suspend or revoke a carbon sequestration project permit for any of the following reasons:

- (1) The permit was issued due to fraud or intentional misrepresentation by the storage operator.
- (2) The information or conditions under which the permit was issued changed in a way that is not considered a minor modification under section 4(b) of this rule.
- (3) The storage operator failed to maintain the financial responsibility required under this article.
- (4) The storage operator violated IC 14-39 or this article.
- (5) The storage operator is polluting water or land in violation of IC 13 or IC 14.
- (6) The storage operator was issued a written notice of violation by the state and failed to do at least one (1) of the following:
 - (A) Abate a violation during the prescribed period.
 - (B) Receive in writing additional time to abate the violation before the abatement period under clause (A) expires.
 - (C) Request a proceeding under IC 4-21.5.

(7) There is a change to the operating conditions of a monitoring well or carbon dioxide injection well that is not considered a minor modification under section 5(b) of this rule.

(8) If a storage operator who discovers that they:

(A) failed to submit information in a permit application; or

(B) submitted incorrect information in a permit application or report to the department;

fails to immediately notify the department and submit the omitted or correct information to the department.

(b) A written notice of violation issued under subsection (a)(6) must include the following:

(1) The nature of the violation.

(2) The action necessary to abate the violation.

(3) The date by which the violation must be abated.

(4) Notice that a person may file a written request for administrative review of the notice of violation not later than thirty (30) days after the notice is issued under IC 4-21.5.

(c) A written notice of violation under subsection (a)(6) is considered properly served upon:

(1) personal delivery on the storage operator, or the storage operator's designee; or

(2) service by United States first class mail to the address of record on file with the division of reclamation for the department.

(d) The date by which the violation must be abated under subsection (b)(3) may be modified by the department at the storage operator's request demonstrating that:

(1) abatement within the original time established is not practicable due to:

(A) the scope of actions required for abatement; or

(B) circumstances beyond the control of the storage operator; and

(2) a delay in abating the violation will not:

(A) substantially increases the damage to property;

(B) increase the threat to the environment; or

(C) increase the threat to public health or safety.

(e) If the department suspends or revokes a permit under this section, the storage operator shall immediately stop injecting carbon dioxide.

(f) A determination under this section is subject to review and appeal under IC 4-21.5. (*Natural Resources Commission; 312 IAC 30-6-3*)

312 IAC 30-6-4 Permit modification; amendment

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 14-39-2

Sec. 4. (a) At the storage operator's request, the department may modify a carbon sequestration project permit to make a minor modification to the permit under subsection (b) without requiring the storage operator to file an application to amend the permit.

(b) A minor modification includes the following:

(1) To correct a typographical error.

(2) To require more frequent monitoring or reporting by a storage operator.

(3) To change an interim compliance date in a compliance schedule that:

(A) is not more than one hundred twenty (120) days after the date specified by the existing carbon sequestration project permit; and

(B) does not interfere with finishing by the required final compliance date.

(c) A modification to a carbon sequestration project permit not processed as a minor modification must be filed as an application to amend an existing carbon sequestration project permit. A storage operator may file an application to amend a permit regarding the following:

(1) A change in the carbon dioxide stream to be injected, including the quantity or type.

(2) A change in the construction requirements to a storage facility, monitoring well, or carbon dioxide injection well.

(3) An amendment to:

- (A) a testing and monitoring plan;
- (B) a plugging plan;
- (C) a postinjection site care and closure plan; or
- (D) an emergency and remedial response plan.

(d) If a storage operator files an application to amend an existing carbon sequestration project permit under subsection (c), the application is treated as a new carbon sequestration project permit. *(Natural Resources Commission; 312 IAC 30-6-4)*

312 IAC 30-6-5 Permit transfer

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5; IC 14-39-2

Affected: IC 4-21.5; IC 13; IC 14-39-2-4

Sec. 5. (a) A storage operator issued a carbon sequestration project permit by the department, with the transferee, may apply to the department for a carbon sequestration project permit transfer if the transferee meets the same underlying qualifications as the storage operator.

(b) At least one hundred twenty (120) days before the intended transfer date, a storage operator and transferee under subsection (a) shall notify the department of the intent to apply for a carbon sequestration project permit transfer. An application for a carbon sequestration project permit transfer must be completed as prescribed by the department, including the information required under subsection (c).

(c) A storage operator and transferee that apply for a carbon sequestration project permit shall submit the following with an application for a carbon sequestration project permit transfer:

(1) Proof the transferee is issued a UIC Class VI permit from the United States Environmental Protection Agency (U.S. EPA) and meets the same underlying qualifications of the storage operator.

(2) The name, address, telephone number, and signature of the storage operator and transferee.

(3) A statement verifying the information submitted is accurate and complete to the best of knowledge of the storage operator and transferee.

(4) The information or documentation submitted to the U.S. EPA by the storage operator and transferee with the UIC Class VI permit demonstrating the following:

(A) The transferee has the financial ability to construct, operate, and maintain a carbon sequestration project. The transferee shall give the department a copy of each financial responsibility instrument submitted by the transferee to the U.S. EPA for the UIC Class VI permit.

(B) The transferee has the managerial and technical ability to construct, operate, and maintain a carbon sequestration project. The transferee shall give the department a copy of each of the following managerial and technical documents submitted by the transferee to the U.S. EPA for the UIC Class VI permit:

- (i) An area of review and corrective action plan.
- (ii) A testing and monitoring plan.
- (iii) A well plugging plan.
- (iv) A postinjection site care and closure plan.
- (v) A corrosion monitoring and prevention program.
- (vi) An emergency and remedial response plan.
- (vii) Construction details.

(C) The transferee, a contractor or subcontractor of the transferee, or an affiliate of the transferee, contractor, or subcontractor have the requisite expertise to construct, operate, and maintain a carbon sequestration project. A transferee shall specify the components to be handled by:

- (i) the transferee; and
- (ii) a contractor or subcontractor of the transferee.

- (D) Information or documentation describing the scope of the proposed carbon sequestration project.
 - (5) A sworn statement describing how the transferee will construct, operate, and maintain the proposed carbon sequestration project to comply with applicable federal, state, and local law, including:
 - (A) safety regulations and rules governing constructing, operating, and maintaining the carbon sequestration project; and
 - (B) related facilities and equipment, to ensure the safety of the transferee's employees and the public.
 - A transferee shall include a copy of a federal, state, or local regulatory agency permit required in addition to the UIC Class VI permit with the statement under this subdivision.
 - (6) A statement that the interests of a mineral lessee or owner will not be adversely affected.
 - (7) An agreement between the transferee and a mineral lessee or owner under IC 14-39-2-4.
 - (8) Documentation regarding the following:
 - (A) A legal proceeding required under Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) and the transferee's report under Form 10-K.
 - (B) A description of a judgment entered against the transferee for a civil or an administrative complaint for violating a state or federal environmental protection law, which imposed a fine or civil penalty of more than ten thousand dollars (\$10,000) on the transferee, not more than five (5) years before the date the application is submitted.
 - (C) A description of a conviction entered against the transferee for violating a state or federal environmental protection law not more than five (5) years before the application is submitted.
 - (9) The date the transfer will occur.
- (d) If the department determines the application for a carbon sequestration project permit transfer is complete, the department shall notify the transferee, and the transferee shall do the following:
- (1) Not later than sixty (60) days after receiving the notice under this subsection:
 - (A) place a copy of the application for a carbon sequestration project permit transfer in a public library located in each county where the carbon sequestration project is proposed to be located for public inspection; and
 - (B) notify the following parties using the method under 312 IAC 29-5-2 as follows:
 - (i) Each unit of government where a storage facility, monitoring well, or carbon dioxide injection well is located.
 - (ii) An owner of a parcel of real estate adjacent to land for which the use is incidental to a carbon sequestration project.
 - (iii) An owner of a parcel of real estate that may be, or is reasonably known to be, affected by the injection of carbon dioxide.
 - (iv) An owner of a parcel of real estate that may be, or is reasonably known to be, affected by the construction of a new road, or the improvement or use of an existing road, to gain access to a storage facility, monitoring well, or carbon dioxide injection well.
 - (2) Not later than thirty (30) days after publication, provide the department proof the notice under this subsection was published in accordance with 312 IAC 29-5-2(c).
 - (3) Provide the department proof the notice was delivered to a person under subdivision (1)(B).
- (e) Not later than ninety (90) days after receiving proof the notice under subsection (b) was published, the department shall notify the applicant in writing that the department:
- (1) approves the transfer; or
 - (2) denies the transfer.
- (f) The department shall deny a carbon sequestration project permit if it determines any of the following:
- (1) The Indiana general assembly or federal government enacted a statute or adopted a regulation that requires denial.

- (2) The applicant failed to give the department a complete application for a transfer for one (1) year after initially submitting the application.
- (3) The department has concerns about the character and fitness of the transferee based on the information given to the department under subsection (c)(8).
- (4) The transferee fails to satisfy the financial, managerial, and technical requirements under this article.
- (5) The transferee did not complete the requirements under subsection (c).
- (6) The transferee demonstrated a pattern of willful violations resulting in damage to the environment.
- (7) The transferee is a person with a pending violation notice or civil penalty under IC 13 or IC 14. If this finding is made, however, the transferee is not disqualified from receiving the transfer if:
 - (A) the violation is, or is in the process of being, corrected to the satisfaction of the department; or
 - (B) the transferee filed and is pursuing administrative review of the violation under IC 4-21.5.
- (8) The transferee had a carbon sequestration project permit revoked under this rule.

(g) If an application for a permit transfer is filed and a pending violation notice is associated with the carbon sequestration project permit issued to the storage operator:

- (1) the transferor that has a pending violation notice, and its surety, are liable to abate the violation and satisfy the assessed penalty;
- (2) the transferee may accept liability to perform the violation abatement, and the transferor is required to satisfy the assessed penalty; or
- (3) a transferee is liable to perform the violation abatement and for the assessed penalty, after the carbon sequestration project permit transfer.

The department may waive the penalty for a violation notice in writing not later than ninety (90) days after the permit transfer if the department determines that the transferee is acting in good faith to abate the violation.

(h) The department shall issue notice either approving or denying a permit transfer.

(i) A permit transfer is effective on approval in writing by the department.

(j) A determination under this section is subject to review and appeal under IC 4-21.5. (*Natural Resources Commission; 312 IAC 30-6-5*)

Rule 7. Ongoing Responsibilities of a Storage Operator

312 IAC 30-7-1 Financial responsibility

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 1. (a) A storage operator shall provide proof of ongoing financial responsibility to the department annually.

(b) If a storage operator experiences a financial change that affects their ongoing financial responsibility, the storage operator shall notify the department of the financial change not later than thirty (30) days after the financial change occurs.

(c) If proof of financial responsibility is not maintained as required during the carbon sequestration project, the carbon sequestration project permit is invalid.

(d) If a carbon sequestration project permit is considered invalid under subsection (c), a storage operator may not engage in, or claim to be engaged in, a carbon sequestration project until:

- (1) the storage operator complies with the financial responsibility requirement under subsection (a); and

(2) the carbon sequestration project permit is considered valid by the department.
(Natural Resources Commission; 312 IAC 30-7-1)

312 IAC 30-7-2 Annual reports

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 2. (a) Except as provided in section 3 of this rule, a storage operator shall file with the department an annual report that includes the following information:

- (1) A change to the source or physical, chemical, and other characteristics of the carbon dioxide stream from the data initially provided with the UIC Class VI permit.**
- (2) The monthly average, highest, and lowest values for injection pressure, flow rate and volume, and annular pressure.**
- (3) An event that exceeds operating parameters for annulus or injection pressure under the UIC Class VI permit.**
- (4) An event that triggers a shutoff device and the response to remediate the triggering event.**
- (5) The annual volume and mass of the carbon dioxide stream injected over the reporting period and the volume injected cumulatively over the life of the project to date.**
- (6) The results of testing and monitoring required by the United States Environmental Protection Agency for a UIC Class VI permit.**
- (7) The summarized results of:**
 - (A) the periodic tests of mechanical integrity;**
 - (B) all performed well workovers; and**
 - (C) any other test of the monitoring well or carbon dioxide injection well required by the department.**
- (8) Updated projections based on actual reservoir operational experience, including geologic data and information. Updated projections under this subdivision refer to the projections for the response and storage capacity of the storage reservoir.**
- (9) An anomaly in predicted behavior as indicated by the requirements of a carbon sequestration project permit or in the assumptions for which the carbon sequestration project permit is issued must be explained and, if needed, the permit conditions amended under this article.**
- (10) A summary of any instances of noncompliance with a UIC Class VI permit.**

(b) The storage operator shall give the annual report required under subsection (a) to the department not later than sixty (60) days after the end of the calendar year. *(Natural Resources Commission; 312 IAC 30-7-2)*

312 IAC 30-7-3 Other reporting requirements

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 3. A storage operator shall notify the department of any instance of:

- (1) a well workover; or**
- (2) noncompliance with a UIC Class VI permit;**

not later than thirty (30) days after an instance under subdivision (1) or (2). *(Natural Resources Commission; 312 IAC 30-7-3)*

312 IAC 30-7-4 Notice; alteration or addition; storage facility

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 4. A storage operator shall give notice to the department at least ninety (90) days before:

- (1) a planned substantive physical alteration, addition, or change to the storage facility that is likely to have an effect on the scope of the approved application; or**
- (2) an activity which may result in noncompliance with the requirements of the carbon sequestration project permit.**

(Natural Resources Commission; 312 IAC 30-7-4)

Rule 8. Records

312 IAC 30-8-1 Access to records

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39-2-13

Sec. 1. (a) A storage operator shall:

- (1) cooperate with the department; and**
- (2) allow access to all records and documents;**

as required by the department in carrying out the department's duties regarding a carbon sequestration project.

(b) A storage operator shall retain the following records:

- (1) Data collected for a carbon sequestration project permit application.**
- (2) Data regarding the source, nature, and composition of the carbon dioxide stream to be injected under a carbon sequestration project permit.**
- (3) Records from the closure period, including well plugging reports, post injection site care data, and a final assessment.**

(c) Once a project is finished, the storage operator shall deliver the records required under this section to the department.

(d) Except as provided under subsection (e), a storage operator shall:

- (1) retain records required under this section; and**
- (2) transfer the records to the department;**

not later than one hundred eighty (180) days after receiving the certificate of project completion from the department under IC 14-39-2-13.

(e) A storage operator shall retain the records under this section until the storage operator is issued a certificate of project completion from the department under IC 14-39-2-13.

(f) The record retention period under subsection (d) may be extended at the request of the department. *(Natural Resources Commission; 312 IAC 30-8-1)*

312 IAC 30-8-2 Inspections

Authority: IC 14-10-2-4; IC 14-10-2-5; IC 14-39-0.5

Affected: IC 14-39

Sec. 2. A storage operator shall allow the department, or an agent or employee of the department, to at reasonable times:

- (1) review records at the location where the records are kept; or**
- (2) copy a record;**

under the requirements of a carbon sequestration project permit. *(Natural Resources Commission; 312 IAC 30-8-2)*