



## MEMORANDUM

TO: IOGCC Official and Associate Official Representatives and Oil and Gas Directors

FROM: Kimberly Wurtz, Chair  
Legal and Regulatory Affairs Committee

RE: Final Draft Model Statute on Geologic Sequestration of Carbon Dioxide

DATE: May 21, 2025

The Model Statute Workgroup of the IOGCC Legal and Regulatory Affairs Committee has completed a final draft of a revised model statute on Geologic Sequestration of Carbon Dioxide. The final draft is now posted on the committee's webpage under cover of this memorandum.

The model statute is prepared so that states or other jurisdictions may adopt the provisions of the model, either in whole or in part, as their own statutory law. States and other jurisdictions will have the liberty to edit and change the language as each sees fit.

In the months leading up to the IOGCC Annual Conference in Anchorage, Alaska, the Model Statute Workgroup will draft guidance to accompany the model statute. Attached is the workgroup's project plan for this effort. The Legal and Regulatory Affairs Committee will present the model statute and guidance for approval by the Commission at the Business Session of the IOGCC Annual Conference on September 24, 2025.

Attachment: Project Plan

# Project Plan

## Legal and Regulatory Affairs Committee Model Statute and Guidance on Geologic Sequestration of Carbon Dioxide

This project plan is a detailed outline of the objectives, tasks, timeline, and deliverables needed to complete this project successfully by the IOGCC Annual Conference, September 24, 2025.

Task	DUE DATE
IOGCC Annual Business Meeting - Business Session Brief the commission on the status of the Model Statute and the preparation of the Guidance.	05/21/2025
Post FINAL DRAFT Model Statute to IOGCC website.	05/21/2025
Workgroup sections complete DRAFT Guidance.	06/27/2025
Series of Friday meetings as needed to review and edit DRAFT Guidance.	Month of July
Workgroup completes review and edit of DRAFT Guidance.	07/25/2025
Send DRAFT Model Statute and Guidance to the Legal and Regulatory Affairs Committee Members and Oil and Gas Directors for review.	07/25/2025
All comments and edits are due back from committee members and oil and gas directors.	08/08/2025
Workgroup addresses comments submitted on 08/08/2025 and finalizes Guidance.	08/08/2025 to 08/22/2025
Send FINAL Model Statute and Guidance to Official and Associate Official Representatives.	08/25/2025
Vote at Business Session for approval by the Commission.	09/24/2025

# MODEL STATUTE

## INTERSTATE OIL AND GAS COMPACT COMMISSION

### Chapter 1: Geologic Sequestration of Carbon Dioxide.

#### Subchapter A: General provisions.

##### Section 1.1. Legislative declaration; jurisdiction.

(a) The Legislature of the State of \_\_\_\_\_ declares that (1) the geologic sequestration of carbon dioxide and associated movement of carbon dioxide by pipeline will benefit the citizens of the state and the state's environment by reducing greenhouse gas in the atmosphere; (2) carbon dioxide is a valuable commodity to the citizens of the state and geologic sequestration of carbon dioxide may allow for the orderly withdrawal of carbon dioxide, as appropriate or necessary, for commercial, industrial, or other uses, including enhanced recovery of oil and gas; (3) this chapter allows for the use of geologic resources for sequestration of carbon dioxide while safeguarding ownership and use of the subsurface for other purposes, including but not limited to mineral extraction, groundwater management, and artificial recharge; (4) the regulatory measures authorized by this chapter are designed to ensure the integrity and safety of facilities used in the geologic sequestration of carbon dioxide; and (5) the use of carbon dioxide pipelines, including their routing, construction, maintenance, and operation, for geologic sequestration of carbon dioxide is a public use and service, in the public interest, and a benefit to the welfare and people of the state.

(b) The [State Regulatory Agency] has exclusive jurisdiction and authority over all persons and property necessary to administer and enforce the provisions of this chapter concerning the geologic sequestration of carbon dioxide. In exercising this jurisdiction and authority, the [State Regulatory Agency] may conduct hearings, adopt and enforce rules and regulations, and issue and enforce orders concerning geologic sequestration of carbon dioxide.

(c) This chapter applies to operations injecting carbon dioxide in Class VI injection wells and may not be construed to apply to operations injecting carbon dioxide in other classes of injection wells as defined by 40 C.F.R. § 146.5.

##### Section 1.2. Definitions.

(a) **Carbon dioxide.** Anthropogenically sourced carbon dioxide of sufficient purity and quality as to not compromise the safety and efficiency of the reservoir to effectively contain the carbon dioxide.

(b) **Class VI injection well.** Injection well classified as Class VI under 40 C.F.R. § 146.5(f).

(c) **Corresponding right.** The right of all sequestration estate owners in a unit area to be equitably compensated for the use of the sequestration estates by a sequestration facility.

(d) **Geologic sequestration.** Storage of carbon dioxide in a reservoir.

(e) **Oil or gas.** Oil, natural gas, or gas condensate.

(f) **Pore space.** A cavity or void in a reservoir.

1 (g) **Reservoir.** Any subsurface geologic stratum, formation, or aquifer, including an oil and  
2 gas reservoir, saline formation, or coal seam, suitable for or capable of being made suitable for  
3 the sequestration of carbon dioxide.

4 (h) **Sequestration estate.** Ownership of the right to use pore space in a reservoir for geologic  
5 sequestration of carbon dioxide.

6 (i) **Sequestration facility.** The reservoir, subsurface installations and equipment, and surface  
7 buildings and equipment used in the geologic sequestration of carbon dioxide, excluding  
8 pipelines used to transport the carbon dioxide from one or more capture facilities to the site of  
9 geologic sequestration. The reservoir component of the sequestration facility includes any  
10 necessary and reasonable areal buffer and subsurface monitoring zones designated by the [State  
11 Regulatory Agency] for the purpose of ensuring the safe and efficient operation of the facility.

12 (j) **Sequestration operator.** Any person, corporation, partnership, limited liability company,  
13 or other entity authorized by the [State Regulatory Agency] to operate a sequestration facility.  
14

### 15 **Section 1.3. Antitrust immunity.**

16 An order, permit, or certificate issued under this chapter, related agreements providing for  
17 joint or cooperative development of a reservoir or portion thereof, and operations conducted  
18 thereunder for the geologic sequestration of carbon dioxide do not violate statutes relating to  
19 trusts, monopolies, or contracts and combinations in the restraint of trade.  
20

### 21 **Section 1.4. Penalties.**

22 Any person who violates any provision of this chapter or any rule or regulation adopted or  
23 order issued hereunder is subject to a civil penalty not to exceed [amount] per violation. Each  
24 day of violation shall constitute a separate offense.  
25

### 26 **Section 1.5. Severability.**

27 If a provision of this chapter or its application to a person or circumstance is held invalid, the  
28 invalidity does not affect other provisions or applications of this chapter that can be given effect  
29 without the invalid provision or application, and to this end, the provisions of this chapter are  
30 severable.  
31

## 32 **Subchapter B: Sequestration facilities.**

### 33 34 **Section 1.11. [State Regulatory Agency] approval; recordation of order and** 35 **certificate of operation of sequestration facility.**

36 (a) A sequestration facility is hereby authorized, provided that the [State Regulatory Agency]  
37 shall first enter an order, upon application by the proposed sequestration operator and after public  
38 notice and hearing, approving the proposed geologic sequestration of carbon dioxide and  
39 designating the horizontal and vertical boundaries of the sequestration facility. Before issuing an  
40 order approving a sequestration facility, the [State Regulatory Agency] shall find as follows:

1 (1) That the sequestration facility, including the reservoir, is suitable and feasible for the  
2 injection and sequestration of carbon dioxide;

3 (2) That a good faith effort has been made to obtain the consent of the owners of at least  
4 [sixty (60)] percent of the sequestration estate acreage to be included in the sequestration facility  
5 area and that the sequestration operator intends to acquire any remaining interest needed to  
6 operate the facility by voluntary agreement, [unitization,]<sup>1</sup> or as otherwise allowed by statute;

7 (3) That the use of the sequestration facility for the geologic sequestration of carbon  
8 dioxide will not endanger any underground source of drinking water or unduly impair the ability  
9 to extract any oil, gas, coal, or other commercial mineral deposit or to operate a permitted  
10 underground injection well; and

11 (4) That the proposed sequestration will not unduly endanger human health and the  
12 environment and is in the public interest.

13 (b) Upon issuance of an order of approval, the sequestration operator shall cause the order, or  
14 a certified copy, to be recorded in the land records of each county in which any portion of the  
15 sequestration facility is to be located.

16 (c) Prior to commencing injection of carbon dioxide, the sequestration operator shall record in  
17 the land records of each county in which any portion of the sequestration facility is located, and  
18 with the [State Regulatory Agency], a certificate, entitled "Certificate of Operation of  
19 Sequestration Facility," which shall contain a statement that the sequestration operator has  
20 acquired by voluntary agreement, [unitization,]<sup>2</sup> or otherwise all necessary ownership rights with  
21 respect to the sequestration facility, and the date upon which the sequestration facility shall be  
22 effective.

23 (d) If any depleted pool for any previously established field(s) or producing unit(s) for  
24 hydrocarbons is contained within the boundaries of the sequestration facility, the [State  
25 Regulatory Agency] may in its order of approval for the sequestration facility order that the  
26 field(s) or unit(s) be dissolved as of the effective date of the sequestration facility as set forth in  
27 the Certificate of Operation of Sequestration Facility.

## 28 29 **Section 1.12. Protection against pollution and escape of carbon dioxide.**

30 The [State Regulatory Agency] shall issue such orders, permits, and certificates, including  
31 establishment of appropriate and sufficient financial assurance, as may be necessary for the  
32 purpose of regulating the drilling, operation, and plugging and abandonment of wells and  
33 removal of surface buildings and equipment of the sequestration facility to prevent pollution and  
34 the escape or migration of carbon dioxide.

## 35 36 **Section 1.13. Establishment of Sequestration Facility Trust Fund.**

37 (a) The Sequestration Facility Trust Fund is hereby created as a special fund in the state  
38 treasury.

39 (b) The Sequestration Facility Trust Fund shall be an interest-bearing fund. Interest earned on  
40 monies in the fund shall be credited to the fund.

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<sup>1</sup> Inserted if the state enacts Section 1.22.

<sup>2</sup> Inserted if the state enacts Section 1.22.

(c) Monies received under section 1.14, including fees collected by the [State Regulatory Agency] and monies received by the [State Regulatory Agency] from the sequestration operator with an application for a Certificate of Completion of Injection Operations, and penalties collected under section 1.4 for violations of this chapter shall be deposited to the credit of the Sequestration Facility Trust Fund.

(d) The Sequestration Facility Trust Fund may be used by the [State Regulatory Agency] only for the following activities related to sequestration facilities:

(1) Processing applications and issuing orders, permits, or certificates;

(2) Inspecting, monitoring, investigating, recording, and reporting;

(3) Training and technology transfer related to geologic sequestration of carbon dioxide;

(4) Compliance and enforcement; and

(5) Oversight and management after the Certificate of Completion of Injection Operations is issued, including without limitation long-term monitoring, remediation of mechanical problems associated with remaining observation wells and surface infrastructure, repairing mechanical leaks, and plugging and abandoning remaining observation wells.

(e) The monies in the Sequestration Facility Trust Fund shall not relieve the operator from responsibility for maintaining financial assurance mechanisms as required under section 1.12.

#### **Section 1.14. Fees.**

(a) The [State Regulatory Agency] may impose fees to cover the cost of:

(1) Processing applications and issuing orders, permits, or certificates for sequestration facilities, inspecting, monitoring, investigating, recording, and reporting on sequestration facilities, and otherwise implementing and enforcing this chapter and the rules adopted and orders, permits, or certificates issued by the [State Regulatory Agency] under this chapter; and

(2) Oversight and management of sequestration facilities after site closure.

(b) Any fees imposed under subsection (a)(2) of this section shall be levied on a sequestration operator based on an assessment by the [State Regulatory Agency] of the present value of the anticipated cost of oversight and management of the sequestration facility, including associated wells, after site closure.

(c) Fees imposed by the [State Regulatory Agency] under subsection (a) of this section shall be segregated as follows:

(1) Fees imposed for the purpose of covering the activities described in subsection (a)(1) shall be deposited to the credit of the Sequestration Facility Trust Fund established under section 1.13; and

(2) Fees imposed for the purpose of covering the activities described in subsection (a)(2) shall be held in escrow by the sequestration operator pursuant to rules adopted by the [State Regulatory Agency], provided that such rules shall permit investment of the escrowed funds.

(d) At the time the sequestration operator applies for a Certificate of Completion of Injection Operations under section 1.15, the sequestration operator shall deposit to the credit of the Sequestration Facility Trust Fund established under section 1.13 monies accumulated in escrow pursuant to subsection (c)(2) of this section sufficient to cover the anticipated cost of oversight and management following closure of the sequestration facility, including associated wells, as determined by the [State Regulatory Agency].

1  
2 **Section 1.15. Liability release.**

3 (a) At such time as the [State Regulatory Agency] may establish, the sequestration operator  
4 may apply to the [State Regulatory Agency] for a Certificate of Completion of Injection  
5 Operations. The [State Regulatory Agency] shall approve the application and issue a certificate  
6 upon demonstration by the sequestration operator that the carbon dioxide is expected to remain  
7 stable and contained, closure has been approved for all sequestration facility injection wells, the  
8 sequestration operator has deposited in the Sequestration Facility Trust Fund an amount  
9 sufficient to cover the anticipated cost of oversight and management as required by the [State  
10 Regulatory Agency] under section 1.14, and all other applicable requirements of the [State  
11 Regulatory Agency] have been met.

12 (b) Except as provided in subsection (c) of this section, upon the issuance of the Certificate of  
13 Completion of Injection Operations:

14 (1) Ownership of the remaining components of the sequestration facility, including the  
15 stored carbon dioxide, transfers to the state;

16 (2) The sequestration operator shall be released from all further regulatory liability  
17 associated with the sequestration facility;

18 (3) Any performance bonds posted by the operator under section 1.12 and any amount  
19 remaining in escrow under section 1.14 shall be released; and

20 (4) Continued monitoring of the site and any future remediation activities shall become the  
21 responsibility of the [State Regulatory Agency] using monies in the Sequestration Facility Trust  
22 Fund.

23 (c) Regulatory liability remains with or is reimposed upon the sequestration operator to the  
24 extent that the [State Regulatory Agency] determines, after notice and hearing, that:

25 (1) The sequestration operator violated a state statute or regulation related to the  
26 sequestration facility that was not remedied prior to approval of the application for a Certificate  
27 of Completion of Injection Operations and any applicable statutes of limitation have not run;

28 (2) The sequestration operator provided deficient or erroneous information that was  
29 material and relied upon by the [State Regulatory Agency] to support issuance of the certificate;

30 (3) Liability arises from the sequestration operator's conduct associated with the  
31 sequestration facility that was not known to the [State Regulatory Agency] at the time the  
32 Certificate of Completion of Injection Operations was issued and that, if known, would have  
33 materially affected the [State Regulatory Agency's] decision to approve site closure; or

34 (4) There is fluid migration for which the sequestration operator is responsible that causes  
35 or threatens imminent and substantial endangerment to an underground source of drinking water.

36 (d) This section does not alter liability a sequestration operator may have for contractual or  
37 other civil obligations or for criminal violations of law.

38  
39 **Section 1.16. Cooperative agreements.**

40 (a) The [State Regulatory Agency] is hereby authorized to enter into agreements with other  
41 states, tribes, and federal agencies for the purpose of regulating sequestration facilities that  
42 extend beyond state boundaries or include federal pore space.

(b) An agreement executed pursuant to this section shall ensure effective management, compliance with regulatory requirements, and coordination among the involved jurisdictions.

(c) Operators of sequestration facilities that cross state borders or include federal pore space are required to obtain pore space rights in all affected jurisdictions, irrespective of differences in pore space ownership laws and Class VI permitting primacy.

(d) The [State Regulatory Agency] shall seek to obtain agreements that address and reconcile any regulatory inconsistencies between jurisdictions to facilitate effective facility management.

(e) The [State Regulatory Agency] shall explore and implement potential incentives for states and tribes in which a sequestration facility is located.

(1) Incentives may include, but are not limited to, mechanisms to credit jurisdictions accepting carbon dioxide generated from other areas.

(2) The [State Regulatory Agency] shall report annually to the legislature on the development and implementation of such incentives.

(f) If applicable, the [State Regulatory Agency] shall engage with the Bureau of Land Management (BLM) and other relevant federal agencies to ensure a clear understanding of policies and regulations regarding multi-state sequestration facilities or sequestration facilities including federal pore space.

(1) The purpose of this engagement shall be to facilitate effective management and oversight of cross-jurisdictional sequestration facilities.

(2) The [State Regulatory Agency] shall report annually to the legislature on the status and outcomes of these engagements.

(g) Where a sequestration facility will cross jurisdictional boundaries, the [State Regulatory Agency] is authorized to execute Memoranda of Understanding (MOU) to establish the responsibilities and coordination between the jurisdictions, including states and tribes.

(1) An MOU shall, at a minimum, address:

- (i) Regulatory oversight responsibilities;
- (ii) Monitoring and reporting requirements;
- (iii) Enforcement procedures;
- (iv) Financial assurance mechanisms; and
- (v) Dispute resolution processes.

(2) The [State Regulatory Agency] shall maintain a public record of all MOUs entered into under this section.

(h) No later than [specified date] each year, the [State Regulatory Agency] shall submit an annual report to the [relevant legislative committees] detailing:

- (1) The status of all cross-jurisdictional sequestration facilities;
- (2) Any agreements entered into under this section;
- (3) Progress on implementing incentives under this section;
- (4) Outcomes of any federal agency coordination efforts under this section; and
- (5) A summary of MOUs established under this section.

## **Section 1.17. Conflicts between sequestration facilities and other activities.**

(a) The [State Regulatory Agency] that oversees wells that may be drilled through or otherwise impact a sequestration facility shall adopt rules or issue permit conditions that are



1 necessary and reasonable to avoid, minimize, or mitigate adverse impacts from drilling through  
2 or otherwise impacting a sequestration facility. These rules or permit conditions shall address  
3 drilling, well stimulation and completion, well construction including material compatibility,  
4 notification requirements, well testing, and well closure.

5 (b) Should a sequestration operator or the [State Regulatory Agency] become aware of a well  
6 that penetrates or otherwise impacts the sequestration facility, the sequestration operator shall  
7 evaluate whether the well has an adverse impact on the sequestration facility.

8 (c) If an adverse impact is identified, the operator of the impacting well shall report it to the  
9 [State Regulatory Agency] and take appropriate corrective action as required and approved by  
10 the [State Regulatory Agency].

11 (d) A sequestration operator, a mineral owner, a mineral lessee, or a permitted underground  
12 injection well operator may petition the [State Regulatory Agency] that oversees the  
13 sequestration facility to establish or amend conditions of the sequestration facility order to avoid,  
14 minimize, or mitigate demonstrated adverse impacts to the cognizable interests of a mineral  
15 owner, mineral lessee, or permitted underground injection well operator.

## 17 **Section 1.18. Induced seismicity management.**

18 (a) The [State Regulatory Agency] shall take reasonable steps to manage and require  
19 sequestration operators to manage the risks of induced seismicity associated with sequestration  
20 facilities.

21 (b) The [State Regulatory Agency] may require the sequestration operator to deploy, maintain,  
22 and monitor, for as long as necessary, an appropriately calibrated seismicity monitoring system  
23 for a sequestration facility. The seismic monitoring system shall be designed to determine as  
24 reasonably practicable, within a defined area in the vicinity of the sequestration facility that is  
25 acceptable to the [State Regulatory Agency], the presence or absence, magnitude, and hypocenter  
26 location of seismic activity with a minimum magnitude of completeness that is two magnitude  
27 units below a local magnitude threshold made applicable to the facility pursuant to subsection (c)  
28 of this section.

29 (c) When determining a local magnitude threshold for a seismicity monitoring system  
30 required pursuant to subsection (b) of this section, the [State Regulatory Agency] shall take into  
31 account relevant factors, including without limitation geologic setting, known faults, previous  
32 seismic activity, economic and technological considerations, potential hazards to infrastructure or  
33 other property, public safety and the degree of public concern regarding events of particular  
34 magnitudes, and potential hazards to underground sources of drinking water and containment of  
35 injected carbon dioxide. The [State Regulatory Agency] may use a single threshold throughout  
36 the state, may create different thresholds for different regions, or may create different thresholds  
37 for different sequestration facilities or different portions of a single sequestration facility.

38 (d) If the [State Regulatory Agency] requires a seismicity monitoring system pursuant to  
39 subsection (b) of this section, the sequestration operator shall collect and analyze the data  
40 acquired and other relevant data to determine whether the risk of inducing a seismic event of the  
41 magnitude applicable to the sequestration facility pursuant to subsection (c) of this section is  
42 significantly increased by carbon dioxide injection. The sequestration operator shall report  
43 results of the risk analysis and the underlying data as required by the [State Regulatory Agency].

1 The risk analysis shall be updated as frequently as the [State Regulatory Agency] determines  
2 necessary.

3 (e) If the sequestration operator or the [State Regulatory Agency] determines that the risk of  
4 inducing a seismic event of the magnitude applicable to the sequestration facility pursuant to  
5 subsection (c) of this section is significantly increased by carbon dioxide injection, the  
6 sequestration operator shall modify injection rates and/or volumes or take other mitigation steps  
7 it considers reasonable unless other actions are required by the [State Regulatory Agency].  
8

### 9 **Section 1.19. Enhanced recovery operations.**

10 The [State Regulatory Agency] is expressly authorized to allow conversion of an existing  
11 enhanced recovery operation into a sequestration facility. Upon approval of the conversion, the  
12 provisions of this chapter shall apply.  
13

## 14 **Subchapter C: Sequestration estate[ and unitization]<sup>3</sup>.**

### 16 **Section 1.21. Sequestration estate.**

17 (a) If ownership of the sequestration estate has not been separately severed, conveyed, or  
18 reserved pursuant to subsection (c) of this section, ownership of the sequestration estate in the  
19 state is vested in the owner of the overlying surface estate.

20 (b) Except as provided by section 1.15(b)(1) or section 1.22(c)(6) or (j), ownership of carbon  
21 dioxide and the facilities and equipment that sequester carbon dioxide in the state is vested in:

22 (i) The sequestration operator; or

23 (ii) Any person conveyed title to the carbon dioxide or the facilities and equipment that  
24 sequester the carbon dioxide by the sequestration operator.

25 (c) Ownership of a sequestration estate may be:

26 (1) Severed from the ownership of the overlying surface estate; and

27 (2) Conveyed or reserved in the same manner as ownership of a mineral estate.

28 (d) Any conveyance of the ownership of an overlying surface estate also conveys all the  
29 grantor's ownership of any sequestration estate unless:

30 (1) The conveyance instrument expressly reserves the sequestration estate, including by  
31 broad reservation of pore space; or

32 (2) The sequestration estate has been previously severed, by reservation or conveyance,  
33 from the ownership of the overlying surface estate.

34 (e) A conveyance of the ownership of a mineral estate or another subsurface interest does not  
35 convey the grantor's ownership in the sequestration estate unless the conveyance instrument  
36 expressly provides for conveyance of the grantor's ownership of the sequestration estate.

37 (f) A conveyance of the ownership of a sequestration estate does not convey any right to enter  
38 upon or otherwise use the surface of the property unless the conveyance expressly so provides.

39 (g) Notwithstanding any provision of law to the contrary, nothing in this section:

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<sup>3</sup> Inserted if the state enacts Section 1.22.

1 (1) Affects any ownership or rights to pore space, a sequestration estate, or carbon dioxide  
2 or facilities and equipment that sequester carbon dioxide that are acquired or reserved before the  
3 effective date of this chapter;

4 (2) Changes or alters the common law as of the effective date of this chapter, as it relates to  
5 the ownership of real property, including surface estates, pore space, or a mineral estate, or to the  
6 rights or dominance of a mineral estate; or

7 (3) Affects the ability of an owner of pore space to:

8 (i) Broadly convey or reserve all the owner's right, title, and interest in and to pore  
9 space, including the owner's interest in a sequestration estate; or

10 (ii) Convey or reserve any right, title, or interest in and to estates in pore space other  
11 than the sequestration estate.

12 (h) Transfers of sequestration estate rights made after the date of this chapter are null and void  
13 at the option of the owner of the surface estate if the transfer instrument does not contain a  
14 specific description of the location of the sequestration estate being transferred. The description  
15 may include but is not limited to a subsurface geologic or seismic survey or a metes and bounds  
16 description of the surface lying over the transferred sequestration estate. In the event a  
17 description of the surface is used, the transfer shall be deemed to include the sequestration estate  
18 at all depths underlying the described surface area unless specifically excluded. The validity of  
19 sequestration estate rights under this subsection shall not affect the respective liabilities of any  
20 party, and such liabilities shall operate in the same manner as if the sequestration estate transfer  
21 were valid.

22 (i) Nothing in this section shall alter, amend, diminish, or invalidate rights to the use of  
23 subsurface sequestration estates that were acquired by contract or lease prior to the effective date  
24 of this chapter.

## 25 26 **Section 1.22. Unitization.**

27 (a) Upon application of the sequestration operator or the owner of a sequestration estate  
28 within the sequestration facility and after public notice, the [State Regulatory Agency] shall  
29 conduct a hearing to consider the need for unit operation of a reservoir or portion thereof . The  
30 [State Regulatory Agency] shall issue an order requiring unit operation if it finds that unit  
31 operation of the reservoir or portion thereof is reasonably necessary for the geologic  
32 sequestration of carbon dioxide or to protect corresponding rights. An order for a unit operation  
33 may provide for a unit operation of less than the whole of a reservoir so long as the unit area is of  
34 size and shape reasonably required for that purpose and the conduct thereof will have no  
35 significant adverse effect upon other portions of the reservoir.

36 (b) An application for unitization shall contain, at a minimum, a description of the proposed  
37 unit and the vertical limits to be included therein with a map or plat thereof attached; a statement  
38 that the reservoir or portion thereof involved in the application area has been reasonably defined  
39 based on site characterization and modeling conducted pursuant to the federal Safe Drinking  
40 Water Act, 42 U.S.C. § 300f et seq., as amended, and any rules established by the applicable  
41 underground injection control program(s); a statement of the type of operations contemplated for  
42 the unit area; the proposed plan of unitization; and a proposed operating plan that addresses the  
43 manner in which the unit will be supervised and managed and sequestration estate owners will be

1 equitably compensated. The [State Regulatory Agency] may, by rule, impose additional  
2 requirements for an application for unitization.

3 (c) The terms and conditions of an order for a unit operation must be just and reasonable and  
4 shall include the following:

- 5 (1) a precise definition of the vertical and horizontal limits of the unit area;
- 6 (2) a statement of the nature of the operation contemplated;
- 7 (3) a provision designating the sequestration operator as operator of the unit;
- 8 (4) a provision for recording in the land records of each county in the unit area documents  
9 sufficient to give constructive notice of the establishment of the unit operation respecting all  
10 lands included in the unit area;
- 11 (5) a provision to protect corresponding rights, allocating to each separately owned  
12 sequestration estate in the unit area just and equitable compensation for use of the reservoir for  
13 geologic sequestration of carbon dioxide;
- 14 (6) the manner in which, and the circumstances under which, the unit operation can be  
15 terminated and the unit dissolved; and
- 16 (7) additional provisions found to be appropriate to carry on the unit operation and to  
17 protect corresponding rights.

18 (d) The [State Regulatory Agency], upon its own motion or upon the application of an owner  
19 of an interest in a sequestration estate within the unit area, may for good cause terminate a unit  
20 operation and dissolve the unit on just and equitable terms. If not terminated earlier, the unit  
21 operation shall terminate upon issuance of a Certificate of Completion of Injection Operations.  
22 At the time of dissolution of the unit operation, the operator shall file with the [State Regulatory  
23 Agency] and record in the land records of each county in the unit area documents sufficient to  
24 give constructive notice of the dissolution of the unit operation respecting the lands that were  
25 included in the unit area.

26 (e) An order requiring a unit operation shall not become effective until the operating plan  
27 approved by the [State Regulatory Agency] has been signed and approved in writing by the  
28 owners of at least [sixty (60)] percent of the sequestration estate acreage proposed to be included  
29 in the unit area. The operating plan is subordinate to the terms of an order requiring a unit  
30 operation and to an order amending an order requiring a unit operation.

31 (f) The [State Regulatory Agency] may approve additions to the unit of portions of a reservoir  
32 not previously included within the unit and may extend the unit area as reasonably necessary for  
33 the geologic sequestration of carbon dioxide or to protect corresponding rights. The [State  
34 Regulatory Agency] may approve exclusions from the unit area as reasonably necessary for the  
35 geologic sequestration of carbon dioxide or to protect corresponding rights. An order adding to  
36 or excluding from a unit area must be upon just and reasonable terms. An order to provide for an  
37 addition to a unit area may not become effective until approved by the owners of at least [sixty  
38 (60)] percent of the sequestration estate acreage in the area to be added to unit operation under  
39 the terms of the order. An order providing for an exclusion from a unit area may not become  
40 effective until approved by the owners of at least [sixty (60)] percent of the sequestration estate  
41 acreage in the original unit area, but if the [State Regulatory Agency] determines that the area to  
42 be excluded does not overlie the reservoir, then the order excluding the area shall become  
43 effective without approval of owners.

1 (g) An order providing for unit operation may be amended by an order of the [State  
2 Regulatory Agency] in the same manner and subject to the same conditions as an original order  
3 providing for the unit operation.

4 (h) Operations, including the commencement, drilling, or operation of a well, upon a portion  
5 of a unit area, are deemed conducted on each separately owned tract in the unit area by the  
6 sequestration estate owner or owners thereof.

7 (i) Except to the extent that all affected parties agree, an order providing for unit operation  
8 does not result in a transfer of all or part of a person's title to the sequestration estate in a tract in  
9 the unit area.

10 (j) The creation of a unit operation shall not constitute approval or permitting of underground  
11 injection operations for a well or wells. Injection operations must be separately approved and  
12 permitted.

13 (k) The creation of a unit operation shall not constitute approval or permitting of the use of  
14 fresh water. Use of fresh water must be separately approved and permitted.

15 (l) The [State Regulatory Agency] may issue an order for the unit operation of a reservoir or  
16 reservoirs or parts thereof that include a unit created by a prior order of the [State Regulatory  
17 Agency] or by voluntary agreement.

## 18 19 **Subchapter D: Eminent domain and pipelines.**

### 20 21 **Section 1.31. Common carriers.**

22 Every person owning, operating, or managing any pipeline or part of any pipeline within the  
23 state for the transportation of carbon dioxide to or for the public for hire, or engaged in the  
24 business of transporting carbon dioxide by pipelines, is hereby declared to be a common carrier.  
25

### 26 **Section 1.32. Eminent domain.**

27 Every carbon dioxide common carrier that has filed with the state its acceptance of the  
28 applicable provisions of the law shall have the right and power of eminent domain.  
29 In exercising eminent domain, the common carrier may enter upon and condemn the land, right-  
30 of-way, easements, and property of any person necessary for the construction, maintenance, or  
31 operation of its pipeline. Such power shall be exercised under the procedure provided by other  
32 applicable laws relating to eminent domain.  
33

### 34 **Section 1.33. Preemption.**

35 The state reserves unto itself all rights, powers, privileges, and immunities not preempted by  
36 federal interstate commerce laws and regulations in the right-of-way leasing of any state land for  
37 carbon dioxide pipeline construction, maintenance, or operation within its boundaries.  
38 Notwithstanding any other provision of the law to the contrary, no political subdivision of the  
39 state may regulate any aspect of the construction, maintenance, or operation of a carbon dioxide  
40 pipeline except as expressly authorized pursuant to state law.  
41

1   **Section 1.34. Agricultural land and topsoil restoration.**

2       (a) Any agricultural land and topsoil disturbed by the construction of a carbon dioxide  
3 pipeline pursuant to eminent domain authority shall be repaired and restored in reasonably close  
4 conformity to preconstruction conditions.

5       (b) Any person conducting survey work for a proposed carbon dioxide pipeline pursuant to  
6 eminent domain authority shall notify all affected property owners in writing that:

7           (1) Any agricultural drainage tile that is damaged or removed will be replaced or repaired  
8 to preconstruction working conditions, and

9           (2) Topsoil disturbed by construction or repair of such pipeline will be separated and  
10 replaced.