

**BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA**

IN THE MATTER OF:

REPORT ON RULE PROCESSING, PUBLIC HEARING, AND HEARING OFFICER ANALYSIS WITH RECOMMENDATIONS REGARDING FINAL ACTION

1. RULE PROCESSING

For consideration as to final action, is the proposed added rule governing carbon sequestration projects at 312 IAC 30 that otherwise qualifies as a rule charged by the Department of Natural Resources (the "Department").

The Natural Resources Commission (the “Commission”) gave preliminary adoption to the proposed permanent rules on March 18, 2025.

Whitney Wampler, Deputy General Counsel for the Administration Bureau for the Department submitted the proposed rule language and regulatory analysis to the Indiana Office of Management and Budget (OMB) and Indiana State Budget Agency (SBA) for review and approval. By letter dated March 12, 2025, Lisa Hershman (OMB) and Chad Ranney (SBA) authorized the Department to proceed with the proposed rules as follows:

Pursuant to the provisions of IC 4-22-2-22.8, the Office of Management and Budget and State Budget Agency have reviewed the proposed rule that adds Article 30 to Title 312 of the Indiana Administrative Code (0MB #2025-06R), which you originally submitted on March 12, 2025. After reviewing the proposed rule, the recommendation of 0MB and SBA is that the rule changes be approved. DNR is authorized to commence the public comment period(s).

Furthermore, if you revise the proposed rule after this approval, you must resubmit the rule to 0MB and obtain a new approval pursuant to IC 4-22-2-22.B(e).

2. BUDGET COMMITTEE REVIEW

The proposed permanent rule was not required to be submitted to the Budget Committee for review under IC 4-22-2.

3. FIRST PUBLIC COMMENT PERIOD AND PUBLIC HEARING

The Commission received authorization to proceed from the Indiana Register/Legislative Services Agency on March 31, 2025. The **Notice of First Comment Period** to adopt a rule was published by the Indiana Register at DIN: 20250409-IR-312250162FNA on April 9, 2025. The notice identified Danae Schneck as the “small business regulatory coordinator” for purposes of IC 4-22-2-28.1. The **Notice of Public Hearing** was published at DIN: 20250409-IR-312250162PHA on April 9, 2025.

The Commission posted the Notice of First Comment Period, Regulatory Analysis, and Notice of Public Hearing and other information required under IC 4-22-2-22.5 on the Commission's rulemaking docket maintained on its website at <https://www.in.gov/nrc/rules/rulemaking-docket/>. The rulemaking docket was updated periodically as the rule adoption process progressed.

Under IC 4-22-2-28(b)(2), the proposed permanent rules and regulatory analysis were not required to be submitted to the Indiana Economic Development Corporation's (IEDC) Small Business Ombudsman; therefore, the Division of Hearings for the Commission, which was repealed by House Enrolled Act (HEA) 1466-2025, did not submit them.

The public hearing was held on May 29, 2025, at 11:00 a.m., at the Randolph County 4-H Fairgrounds, Houston Hall, 1885 U.S. Highway 27, Winchester, Indiana, 47394. The meeting was also live streamed via Teams, providing members of the public the opportunity to appear in person or through the Teams application and provide comments. The public comments received during the meeting were regarding concerns about the safety of carbon sequestration projects, opposition to certain proposed projects in certain areas, opposition to carbon sequestration projects generally, scientific and technical information regarding the negative aspects of carbon sequestration projects, and the choice of the meeting location.

Members of the public were also able to make comments through the Commission's rulemaking docket until the public commenting period closed on May 29, 2025 at 11:59 p.m. Comments were received: (1) requesting that the department prohibit carbon sequestration projects in Indiana and expressing opposition to carbon sequestration projects in general; (2) the safety of carbon sequestration projects in Indiana; (3) the eminent domain process and taking private property; (4) involuntary integration; (5) an operator not needing a certificate of authority if the pipeline is on the same property; (6) spending taxpayer money on carbon sequestration projects; (7) lack of public input on carbon sequestration projects; (8) the location of the first public hearing; (9) extending the public comment period; (10) local ordinances and local control; (11) delaying adopting the proposed permanent rules; (12) public access to certain documents for specific projects; (13) denying permits; (14) who is responsible for damages if there is a problem with a carbon dioxide transmission pipeline, or a carbon sequestration project; (15) 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; (16) removing imposed deadlines and amending the proposed permanent rules regarding the application process; (17) the working group that developed the proposed permanent rules and posting information about the working group on the department's website; (18) how the working group was chosen; and (19) clarification of certain points within the proposed permanent rule to ensure ease of compliance by applicants. Additionally, 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.

Two (2) comments were received that warranted changes to the language of the proposed permanent rules. 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. 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. Finally, comments were received regarding clarification of certain points within the proposed permanent rule to ensure ease of compliance by applicants. 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.

Whitney Wampler, Deputy General Counsel for the Administration Bureau for the Department submitted the proposed rule language and regulatory analysis to the Indiana Office of Management and Budget (OMB) and Indiana State Budget Agency (SBA) for review and reapproval because the Department made changes to the proposed permanent rules. The proposed permanent rules were resubmitted to OMB and SBA on May 30, 2025. By letter dated June 3,

2025, Lisa Hershman (OMB) and Chad Ranney (SBA) authorized the Department to proceed with the proposed rules as follows:

Pursuant to the provisions of IC 4-22-2-22.8, the Office of Management and Budget and State Budget Agency have reviewed the proposed rule that adds Article 30 to Title 312 of the Indiana Administrative Code (OMB #2025-06R), which you originally submitted on March 12, 2025, and resubmitted on May 30, 2025. After reviewing the revised proposed rule, the recommendation of OMB and SBA is that the rule changes be approved. DNR is authorized to commence the public comment period(s).

Furthermore, if you revise the proposed rule after this approval, you must resubmit the rule to OMB and obtain a new approval pursuant to IC 4-22-2-22.8(e).

Because the Department received substantive comments during the first public comment period, the Department was required to have a second public comment period and public hearing under IC 4-22-2.

4. SECOND PUBLIC COMMENT PERIOD AND PUBLIC HEARING

The Commission received authorization to proceed from the Indiana Register/Legislative Services Agency on June 4, 2025. The **Notice of Second Comment Period** to adopt a rule was published by the Indiana Register at DIN: 20250611-IR-312250162SNA on June 11, 2025. The notice identified Danae Schneck as the “small business regulatory coordinator” for purposes of IC 4-22-2-28.1. The **Notice of Public Hearing** was published at DIN: 20250611-IR-312250162PHA on June 11, 2025.

The Commission posted the Notice of Second Comment Period, Regulatory Analysis, and Notice of Public Hearing and other information required under IC 4-22-2-22.5 on the Commission’s rulemaking docket maintained on its website at <https://www.in.gov/nrc/rules/rulemaking-docket/>. The rulemaking docket was updated periodically as the rule adoption process progressed.

The public hearing was held on July 11, 2025, at 1:30 p.m., at the Fort Harrison Inn at Fort Harrison State Park, Roosevelt Room, 5830 North Post Road, Indianapolis, Indiana. The meeting was also live streamed via Teams, providing members of the public the opportunity to appear in person or through the Teams application and provide comments. The public comments received during the meeting were regarding concerns about the safety of carbon sequestration projects, opposition to certain proposed projects in certain areas, opposition to carbon sequestration projects generally, and scientific and technical information regarding the negative aspects of carbon sequestration projects.

Members of the public were also able to make comments through the Commission’s rulemaking docket until the public commenting period closed on July 11, 2025, at 11:59 p.m. Comments were received: (1) requesting that the department prohibit carbon sequestration projects in Indiana and expressing opposition to carbon sequestration projects in general and putting more funding into Soil and Water Conservation Districts; (2) the safety of carbon sequestration projects in Indiana, the potential health and safety risks associated with carbon sequestration, specifically, the pipeline rupture in Mississippi and the protection of aquifers, and emergency response in the event of a leak or disaster; (3) spending taxpayer money on carbon sequestration projects and taxpayers being liable for long-term risks; (4) local ordinances and local control; (5) denying permits; (6) who is responsible for damages if there is a problem with a carbon dioxide transmission pipeline, or a carbon sequestration project; and (7) the working group that developed the proposed permanent rules and posting information about the working group on the department’s website. Additionally, 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.

There were no changes made to the rules as a result of comments received during the second public comment period or public hearing.

5. HEARING OFFICER ANALYSIS WITH RECOMMENDATIONS REGARDING FINAL ADOPTION

As required by IC 14-39-0.5, the commission has a duty to adopt rules to implement IC 14-39, regarding carbon dioxide transmission pipelines and carbon sequestration projects. 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. The proposed rules meet the requirements of IC 14-39-0.5 and should be adopted by the commission.

The proposed rules are appropriate and are presented for final adoption and attached as *Exhibit A*.

Dated: July 11, 2025



Whitney M. Wampler
UPDATED Hearing Officer

**PROPOSED PERMANENT RULE AND REGULATORY ANALYSIS DOCUMENT
CARBON SEQUESTRATION PROJECTS**

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 30-2-6*)

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 14-39-1-4.5

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 30-2-7*)

312 IAC 30-2-8 "Underground Injection Control program" or "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 program" or "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 14-39-1-4.5

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) An 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 Certificate of authority; use, occupy, and construct in rights-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; modifications and amendments

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 or 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 property owned, operated, or managed by the state

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 that 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 that wishes to acquire pore space beneath property owned by the state:

(1) may not be able to obtain an easement for use of the pore space; and

(2) may 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 increase 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, addition, or change to 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 that 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)

**Permanent Rule
Regulatory Analysis
LSA Document #XX-XXX**

I. Description of Rule

a. History and Background of the Rule – Interest in transporting and sequestering carbon dioxide increased nationally when Congress passed what is commonly referred to as the 45Q federal income tax credit for carbon capture and sequestration. The 45Q income tax credit was enacted under the Federal Energy Improvement and Extension Act of 2008 to encourage the construction and use of carbon capture and sequestration projects. The tax credit is part of a push by the federal government to decrease carbon emissions across the country. The increase to the 45Q tax credit in 2022 accelerated and expanded the demand for carbon capture and sequestration projects throughout the nation. Carbon capture and sequestration is permitted by the United States Environmental Protection Agency (EPA) under the Class VI program. There are four (4) Class VI permits issued by the EPA presently.

In 2022, the General Assembly passed HEA 1209, which allows carbon sequestration projects in the state. While the statute required the department to issue permits for carbon sequestration projects, the statute did not give the department rulemaking authority. Under HEA 1626-2023, the department was given rulemaking authority for carbon sequestration projects under IC 14-39-2 as well as carbon dioxide transmission pipelines under IC 14-39-1.

The proposed permanent rules establish a new article, 312 IAC 30, regarding carbon sequestration projects and carbon dioxide transmission pipelines. The department has been diligently working 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 rule, 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.

b. Scope of the Rule – The proposed rule establishes the applicability of carbon sequestration projects, in conjunction with IC 14-39-2. Additionally, the proposed rule contains definitions to clarify certain terms, as well as regulations for: (1) obtaining a carbon dioxide transmission pipeline certificate of authority; (2) obtaining a carbon sequestration project permit; (3) administrative and procedural items regarding carbon sequestration projects and carbon dioxide transmission pipelines; (4) ongoing responsibilities of a storage operator; and (5) records of a storage operator.

c. Statement of Need – The General Assembly tasked the department with permitting carbon sequestration projects under IC 14-39-2 and carbon dioxide transmission pipelines under IC 14-39-1. Under IC 14-39-0.5, the department has a duty to adopt rules under IC 4-22-2 to implement the tasks assigned to the department under IC 14-39. Rules adopted under IC 14-39-0.5 must include the provisions necessary for the department's discharge of the duties imposed upon the department.

The statutory directive creates a duty on the department to adopt rules regarding carbon sequestration projects and carbon dioxide transmission pipelines for the directives assigned to the department by the general assembly under IC 14-39.

In anticipation of the enactment of P.L. 158-2023, which provided the department with rulemaking authority for carbon sequestration projects and carbon dioxide transmission pipelines, the department established a working group made up of department staff, other state agencies that are responsible for regulating pieces of these types of projects, industry members, and certain landowners. The working group spent more than one (1) year meeting and working through the rules to ensure that regulated entities would have input.

Working group members who are part of the industry and would be regulated by the proposed rules indicate they require adoption of the rules as quickly as possible to avoid unnecessary delays to their projects once the entity obtains a UIC Class VI permit. Once adopted, the department needs time to create the necessary forms and other regulatory pieces for industry to proceed accordingly with their projects. A delay in the adoption of the rules could result in massive delays to industry which would be costly and result in massive revenue loss. Timeliness is a serious concern for industry. The department is requesting use of the interim rulemaking process to ensure that there are no unnecessary delays to industry once members are issued their UIC Class VI permits; and to reduce costs to the industry for unnecessary delays.

d. Statutory Authority for the Proposed Rule – The department has a duty to adopt rules under IC 14-39-0.5 for IC 14-39-1 and IC 14-39-2. The Natural Resources Commission (commission) has the statutory authority to adopt rules under IC 14-10-2-4.

e. Fees, Fines, and Civil Penalties – The proposed permanent rules do not add or increase a fee, fine, or civil penalty.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule - The anticipated effective date of the proposed permanent rules is October 2025. Preliminary adoption with the commission is expected in March 2025. The public hearings are anticipated to take place sometime in April 2025, with a second public hearing anticipated in June 2025. Final adoption by the commission would likely take place in July 2025. Review by the Attorney General's Office and Governor's Office will take place in August and September 2025. Publishing with the Indiana Register, is likely to occur in September 2025. The permanent rule will likely be effective in October 2025.

b. Estimated Fiscal Impact on State and Local Government – There may be minimal increases to the expenditures and revenues of local governments if local ordinances require permitting for carbon dioxide transmission pipelines. However, the expenditures and revenues should be in the course of normal business. The department will experience increases in expenditures to use the interim and permanent rulemaking processes to adopt rules for carbon sequestration projects under IC 14-39-2 and carbon dioxide transmission pipelines under IC 14-39-1. Additionally, there is an increase in the department's expenditures to maintain staff to issue permits for these projects. There will be revenue for the department resulting from application fees and storage fees. The application fee for a carbon dioxide transmission pipeline certificate of authority is one thousand dollars (\$1,000) and will be deposited in the Oil and Gas Environmental Fund established by IC 14-37-10-2. Additionally, the carbon sequestration project permit application fee of one thousand dollars (\$1,000) will only minimally offset program administration costs for the department. IC 14-39-2 does not specify where the carbon sequestration project permit fee is to be deposited. Finally, an injection fee of eight cents (\$0.08) per ton of carbon dioxide injected into a storage facility will be placed into the Carbon Dioxide Storage facility Trust Fund established by IC 14-39-2-10. There will be increased expenditures due to increased staff time and resources to perform preapplication coordination, review applications and supporting documentation, issue permits, and ensure ongoing requirements are met. These increases are part of normal operating costs of the department and will be taken from the Oil and Gas Operating Fund, 38220

The Indiana Department of Transportation (INDOT) will experience an increase in expenditures to issue permits for the use and occupancy of a right of way for a carbon dioxide transmission pipeline as permitting requirements will lead to increased staff time for reviewing permit applications. INDOT will need to update their federally required Utility Accommodation Policy. Until then, each permit will be reviewed as an exception request to the current Utility Accommodation Policy. Therefore, a civil engineer from INDOT's utility department, in addition to staff from INDOT's permits department will be required to review each application submitted. Based on the estimates in the fall of 2023, INDOT will likely be incurring additional expenses of at least three hundred forty-five dollars (\$345) and not more than nine hundred eighty-five dollars (\$985) for each permit, assuming there are no complications related to a specific carbon dioxide transmission pipeline installation. The financial estimates are based on current staff pay and do not account for pay increases. INDOT will assess a right of way occupancy permit fee of fifty-five dollars (\$55.00). INDOT has

authority (subject to Budget Committee review) to increase its permitting fees through separate rulemaking actions to cover these costs, but currently, does not plan to do so.

The Indiana Utility Regulatory Commission (IURC) estimates that its Office of General Counsel (office) may spend at least three (3) and not more than five (5) hours for each agreement in reviewing potential agreements with applicants for carbon dioxide transmission pipeline certificates of authority. The IURC believes the additional workload to review and enter into any potential agreements will be absorbed as part of the normal operating costs of the office. Therefore, the IURC does not expect additional expenditures resulting from the proposed permanent rules. The IURC Pipeline Safety Division is already required by INDOT's Pipeline and Hazardous Materials Safety Administration to regulate the safety of jurisdictional carbon dioxide transmission pipelines; therefore, any increase to the workload of INDOT's Pipeline and Hazardous Safety Division would be due to federal requirements and would not result from the proposed permanent rules.

The total impact will vary each year depending on the number of applications received for the various permits across state agencies and local units of government. The impact on state agencies, like INDOT, will also be dependent on pipeline routes.

c. Sources of Expenditures or Revenues Affected by the Rule – Beginning as early as 2025, state agencies and local units of government may be affected by carbon capture and sequestration projects. The department, INDOT, the IURC, and local government units may be impacted by these projects. Expenditures for the department will come out of the Oil and Gas Operating Fund, 38220. Costs for INDOT are part of the normal operating expenses under the Utility Accommodation Policy and staff time under the utility and permits departments and will be paid out of INDOT's accounts for those purposes. The increase to the office's workload is part of the normal operating expenses for the office, and the IURC does not expect additional expenditures resulting from the increased workload. While local units of government may be impacted due to permitting, the department does not have access to information regarding the fund that may be impacted. Increases in expenditures to accommodate implementation of the programs will occur across different state agencies. Permit issuance by state agencies and local governments as well as safety regulations by INDOT and the IURC. The department hired staff for the program in 2023, so increased expenditures to the Oil and Gas Operating Fund, 38220, began in 2023 and will continue annually. Other state agencies and local governments will likely see increases in expenditures beginning in 2025.

III. Impacted Parties

Impacted parties include any person who wishes to transport carbon dioxide, sequester carbon dioxide, or both in Indiana. Additionally, pore space owners, surface owners, and persons who elect to participate in a carbon sequestration project will be impacted by the proposed permanent rules. The department, the Indiana Utility Regulatory Commission, the Indiana Department of Transportation, and local units of government will likely be affected due to increased permitting for projects.

IV. Changes in Proposed Rule

The proposed permanent rules are a new article regarding carbon sequestration project permits and carbon dioxide transmission pipeline certificates of authority, so the changes are an addition to existing requirements. The department has authority to adopt rules under IC 4-22-2-37.2; IC 4-22-2.3-3; IC 14-10-2-4; IC 14-10-2-5; and IC 14-39-0.5.

Supporting documentation required for various applications and petitions under the proposed permanent rules are the same as are required under the Class VI permit. This ensures applicants and petitioners are not required to submit different types of documentation for the state permit than they would be required to submit for the Class VI permit. There are not any requirements included as part of the proposed permanent rules that incorporate existing agency standards contained in non-rule documents.

V. Benefit Analysis

***NOTE: Estimated costs under the table below for “Estimated Business Impacts/Costs Savings to Regulated Entities” are possible expense estimates and will vary depending upon the specific project and the amounts each applicant pays staff for the same work. The size and scope of the project will also be a determining factor in the actual costs to a regulated entity.

Agenda Item #11

Additionally, because there are not many projects of this type across the United States, actual costs will not be determined until the program is well underway in Indiana. Other state regulations are different in scope than what the department is tasked with under the Indiana Code, and the costs to regulated entities would likely differ greatly as a result. Finally, some costs may also be absorbed into the costs to apply for a UIC Class VI permit with the EPA.

Indiana Administrative Code Provision	Direct Effects	Indirect Effect	Fiscal Impact to the Department	Estimated Business Impacts/Costs Savings to Regulated Entities
Adds 312 IAC 30-1 Applicability Adds: (1) applicability for definitions under the document and the Indiana Code; and (2) applicability of the rules to permanent underground storage of carbon dioxide	Provides clear applicability of definitions to the rules, as well as applicability of the rules to underground storage of carbon dioxide	None known	None known	None known
Adds 312 IAC 30-2 Definitions Adds the following definitions: (1) carbon dioxide stream; (2) Class VI well; (3) confining zone; (4) department; (5) fair market value; (6) injection zone; (7) mechanical integrity test; (8) responsible officer; (9) transporting carbon dioxide; and (10) Underground Injection Control (UIC) Program	Provides definitions for certain terms used in the proposed rules that do not appear in the Indiana Code	None known	None known	None known
Adds 312 IAC 30-3 permitting agreements between pore space owners and storage operators	Permits an additional option to storage operators and pore space owners to negotiate use of pore	Pore space owners may participate in the storage facility should they wish	None known	None known This is a type of agreement permitted by the

which allow the pore space owner to participate in the storage facility	space	to and the storage operator agree		rules, but there is no requirement that a regulated entity engage in this type of agreement
Adds 312 IAC 30-4 Preapplication coordination Provides for the ability to use preapplication coordination with the department to reduce the turnaround time for applying for carbon dioxide transmission pipeline certificates of authority or carbon sequestration project permits	Provides for the opportunity for an applicant to enter into preapplication coordination with the department to ensure the applicant possesses all necessary application requirements	Provides for fewer delays in application processing Reduces the likelihood of an incomplete or inaccurate application that must be returned to the applicant which would ultimately delay issuing certificates of authority and project permits	None known	None known Preapplication coordination is a benefit provided to applicants by the department of natural resources, which is being explicitly spelled out as an option for regulated entities and does not impose a requirement on regulated entities
Adds 312 IAC 30-5 Carbon dioxide transmission pipeline certificate of authority Provides for when a storage operator does not need a carbon dioxide transmission pipeline certificate of authority Adds the application requirements for a carbon dioxide transmission pipeline certificate of authority Adds how an	Provides clarity to storage operators for when they are required to obtain a carbon dioxide transmission pipeline certificate of authority form the department Clearly sets forth application requirements for a carbon dioxide transmission pipeline certificate of authority Provides instruction for how an applicant demonstrates	Clarification of application requirements reduces time spent reviewing applications and streamlines the approval/denial process Provides applicants with estimates for timelines they will need to obtain other required permits and to comply with other federal, state, and local laws	None known	Application fees are found at IC 14-39-1-4 and are not imposed by the proposed rule. Additionally, the only state-specific documents for an application for a carbon dioxide transmission pipeline certificate of authority that are not already required by the U.S. EPA are regarding: (1)

<p>applicant for a carbon dioxide transmission pipeline certificate of authority illustrates managerial, and technical ability to construct, operate, and maintain a carbon dioxide transmission pipeline</p> <p>Adds how an applicant for a carbon dioxide transmission pipeline certificate of authority illustrates requisite experience to construct, operate, and maintain a carbon dioxide transmission pipeline</p> <p>Adds rules regarding the sworn statement to be made by an applicant that the applicant is in compliance with applicable federal, state, and local laws</p> <p>Adds mapping requirements to be provided to the department for a carbon dioxide transmission pipeline certificate of authority</p> <p>Adds requirements for the department regarding processing an application, as well as additional requirements for a</p>	<p>required managerial and technical ability to construct, operate, and maintain a carbon dioxide transmission pipeline</p> <p>Provides instruction for how an applicant demonstrates required requisite ability to construct, operate, and maintain a carbon dioxide transmission pipeline</p> <p>Provides clear instructions to an applicant regarding what is to be included with the sworn statement</p> <p>Provides instructions for fulfilling mapping requirements</p> <p>Provides the department with clearly established deadlines for making determinations</p> <p>Provides clear guidance regarding use and occupancy of a designated public right-of-way in coordination with regulations for INDOT</p>			<p>the financial, managerial, and technical ability to construct operate, and maintain a carbon dioxide transmission pipeline; and (2) the requisite experience constructing, operating, and maintaining a transmission pipeline</p> <p>The estimated cost of the cost imposed by the proposed rules is seventy-eight thousand five hundred fifty dollars (\$78,550)</p>
--	---	--	--	--

Agenda Item #11

carbon dioxide transmission pipeline certificate of authority				
Adds provisions regarding use and occupancy of a designated public right-of-way				
Adds 312 IAC 30-5-3 regarding insurance requirements for pipelines for carbon sequestration projects	Provides clear insurance requirements for pipelines for carbon sequestration projects	None known	None known	<p>Cost of insurance premiums vary greatly by policy type and amounts across insurance providers</p> <p>Estimated insurance costs are as follows:</p> <p>Annual premiums: \$700,000 policy; approximately \$1,000 annually</p> <p>\$1 million policy; approximately \$1,300 annually</p> <p>\$5 million policy \$2,000-\$2,500 annually</p> <p>(Insurance premiums are included in the seventy-five thousand dollars (\$75,000) of annual ongoing compliance costs)</p>
Adds 312 IAC 30-5-	Provides those	Less work for all	None known	None known

10 regarding the ability to submit a modification to a carbon dioxide transmission pipeline certificate of authority, rather than requiring an entirely new application	holding a certificate of authority with an avenue by which to modify a certificate of authority, rather than submitting an entirely new application	parties involved		Modification of a carbon dioxide transmission pipeline certificate of authority is a benefit to regulated entities provided by the department of natural resources in lieu of submitting a new application and is not a requirement imposed by the proposed rule
Adds 312 IAC 30-5-11 regarding the ability to submit a transfer of a carbon dioxide transmission pipeline certificate of authority	Provides an avenue by which a certificate of authority may be transferred	None known	None known	None known Transfer of a carbon dioxide transmission pipeline certificate of authority is a benefit to regulated entities provided by the department of natural resources and is not a requirement imposed by the proposed rule
Adds 312 IAC 30-5-12 a provision regarding suspension and revocation of a carbon dioxide transmission pipeline certificate of authority	Gives the department reasons suspension or revocation of a certificate of authority is permitted	Puts applicants on notice of the reasons the department can suspend or revoke a certificate of authority	None known	None known Suspension or revocation only occurs in the event of a violation by a regulated entity,

				and this is not a requirement that imposes a cost under the rules
Adds 312 IAC 30-6 Petition for a carbon sequestration project permit Adds timelines for the department to review and approve or deny a carbon sequestration project permit	Provides additional rules for obtaining a carbon sequestration project permit Provides the department with clearly established deadlines for making determinations	Clarifies items required by the Indiana Code to obtain a carbon sequestration project permit by providing applicants with clear documentation required Provides applicants with estimates for timelines they will need to obtain other required permits and to comply with other federal, state, and local laws	None known	<p>Application fees are found at IC 14-39-2-5 and are not imposed by the proposed rule.</p> <p>Additionally, the only state-specific documents for an application for a carbon sequestration project permit that are not already required by the U.S. EPA are regarding: (1) the financial, managerial, and technical ability to construct operate, and maintain a carbon sequestration project; and (2) the requisite experience constructing, operating, and maintaining a carbon sequestration project.</p> <p>The estimated cost of the cost imposed by the proposed rules is seventy-eight thousand five hundred fifty</p>

Agenda Item #11

				<p>dollars (\$78,550)</p> <p>There is no additional cost imposed to a regulated entity by the department of natural resources for modification or transfer of a carbon sequestration project permit</p> <p>Modification and transfer are benefits to regulated entities provided by the department of natural resources and do not impose additional cost requirements on regulated entities</p>
Adds 312 IAC 30-6-3 regarding suspension and revocation of a carbon sequestration project permit	Gives the department reasons suspension or revocation of a certificate of authority is permitted	Puts applicants on notice of the reasons the department can suspend or revoke a certificate of authority	None known	<p>None known</p> <p>Suspension or revocation only occurs in the event of a violation by a regulated entity, and this is not a requirement that imposes a cost under the rules</p>
Adds 312 IAC 30-7 Ongoing requirements of a storage operator	Clarifies to a storage operator the ongoing financial responsibility, record keeping, and	None known	None known	The cost of ongoing requirements is approximately thirty-seven

	reporting requirements			thousand five hundred dollars (\$37,500)
Adds 312 IAC 30-8 Records	Provides storage operators with clear requirements for reporting and providing records to the department, as well as for allowing the department to inspect records	None known	None known	The cost of ongoing requirements is approximately thirty-seven thousand five hundred dollars (\$37,500)

VI. Cost Analysis

a. Estimate of Compliance Costs for Regulated Entities – The estimated costs for the proposed rules were provided by industry members of the working group and appear in the table above. Based on the costs in the table above for the state-specific regulations, the aggregate cost of permitting one (1) project could cost up to two hundred thirty-two thousand one hundred dollars (\$232,100). The costs for the permitting of a project are duplicative of the work done for the Class VI permit through the U.S. Environmental Protection Agency and there are additional requirements under the Indiana Code. These regulations are not imposed by the proposed rule.

In addition, the total aggregate costs to operators are difficult to quantify due to the unknown number of staff, consultants, or attorneys and their respective positions and salaries, i.e. geologists, engineers, etc. working on a specific project. There may be increases in costs for training specific to carbon capture and sequestration. It is difficult to determine equipment necessary and associated costs because equipment and materials may vary by project.

However, offsetting operational costs are carbon capture credits offered by the state or federal government for each ton of carbon dioxide sequestered below ground. When considering the financial offsetting by the 45Q tax credits, there could be few overall cost to storage operators.

Additionally, compliance costs for regulated entities will occur over a period of more than two (2) years. The department anticipates at least two (2) and not more than three (3) projects each year for the first two (2) years of the program.

b. Estimate of Administrative Expenses Imposed by the Rules – Estimated costs to regulated parties appear in the table beginning on page 4 of this document.

c. The fees, fines, and civil penalties analysis required by IC 4-22-2-19.6 – The proposed permanent rules do not add or increase a fee, fine, or civil penalty. No analysis is required under IC 4-22-2-19.6 for the proposed permanent rules.

d. If the implementation of the proposed rule are expected to exceed the threshold set in IC 4-22-2-22.7(c)(6) – The combined implementation and compliance costs for the different phases a carbon sequestration project contained in the proposed permanent rule for businesses, units, and individuals will be over a period of more than two (2) years. The implementation of the proposed rule is not expected to exceed the threshold set in IC 4-22-2-22.7(c)(6).

VII. Sources of Information

a. Independent Verifications or Studies – There were no independent verifications or studies used to make this analysis.

- b. Sources Relied Upon in Determining and Calculating Costs and Benefits** – Estimated ranges are based on information provided by industry members of the working group regarding estimated possible costs associated with their projects.

VIII. Regulatory Analysis

The department was tasked with administering carbon sequestration projects under HEA 1209-2022 and issuing permits for the projects. IC 14-39-0.5 required the department to adopt rules regarding carbon sequestration project permits and carbon dioxide transmission pipeline certificates of authority. Based on the costs in the table above for the state-specific regulations, the aggregate cost of permitting one (1) project could cost up to two hundred thirty-two thousand one hundred dollars (\$232,100). The costs for the permitting of a project are duplicative of the work done for the Class VI permit through the U.S. Environmental Protection Agency and there are additional requirements under the Indiana Code. These regulations are not imposed by the proposed rule. Additionally, compliance costs for regulated entities will occur over a period of more than two (2) years. The department anticipates at least two (2) and not more than three (3) projects each year for the first two (2) years of the program.

There are numerous benefits to this rule as well. The proposed rule establishes the regulations required by the General Assembly in the most nonrestrictive manner, and provides clarity for applicants, pore space owners, and who may be affected by a carbon sequestration project or the placement of a carbon dioxide transmission pipeline, as well as state agencies and local governments tasked with permitting other items associated with carbon sequestration projects and carbon dioxide transmission pipelines. This clarity will help promote smooth interaction between the agencies tasked with permitting different requirements and regulating different safety aspect of the projects, and will benefit the public by providing transparent, easy to understand regulations for the projects beyond what is already set out in the Indiana Code. The benefits of the proposed rules are likely to exceed the costs.

IX. Contact Information of Staff to Answer Substantive Questions

Whitney M. Wampler
Assistant General Counsel
Administration Bureau
Indiana Department of Natural Resources
Legal Division
402 W. Washington Street, Room W261
Indianapolis, Indiana 46204
317-941-4338
WWampler@dnr.IN.gov