

## WEST VIRGINIA CODE: §22-11B-4

### **§22-11B-4. Permit application requirements and contents; application fee, required findings, and rulemaking.**

(a) Every permit application filed under this article shall be on a form as may be prescribed by the secretary, shall be verified, and shall contain all information specified by legislative rule.

(b) Upon filing an application for a permit, an applicant shall:

(1) Pay a fee in an amount set by the secretary. The amount of the fee shall be set by rule and shall be based on the secretary's anticipated cost of processing applications for permits, orders, or determinations under this article. The fee shall be deposited in the Carbon Dioxide Storage Facility Administrative Fund.

(2) Pay to the secretary the costs the secretary incurs in publishing notices of applications and notices for hearings on applications submitted under this article.

(c) Before a permit application may be approved, the secretary shall determine whether the proposed storage facility contains commercially valuable minerals and, if it does, a permit may be issued only if the secretary is satisfied that the interests of the mineral owners or mineral lessees will not be adversely affected or have been addressed in an written agreement entered into by the mineral owners, mineral lessees, and the storage operator;

(d) No permit shall be issued under this article unless the secretary finds:

(1) That the application and the proposed operations comply with all requirements established by the secretary, including any applicable underground injection rules, and with all applicable provisions of state and federal law;

(2) That the storage facility is suitable and feasible for carbon dioxide injection and sequestration;

(3) That the storage operator has made a good-faith effort to obtain the consent of all persons who own the storage reservoir's pore space;

(4) That the storage operator has obtained the written consent of persons who own at least 75 percent of the storage reservoir's pore space and have at least begun the process to obtain the remaining interests through the commission;

(5) That the proposed storage facility will not adversely affect surface waters or formations containing fresh water;

(6) That the storage facility will not unduly endanger human health or the environment;

(7) That adequate horizontal and vertical boundaries of the storage reservoir are defined, including buffer areas, to ensure that the storage facility is operated safely and prudently;

(8) That the storage operator will establish monitoring facilities and protocols to assess the location and migration of carbon dioxide injected for storage and to ensure compliance with all permit, statutory, and administrative requirements;

(9) That all nonconsenting pore space owners are or will be justly and reasonably compensated in accordance with the rules and procedures set forth in or promulgated under this article by the secretary and the commission; and

(10) That the storage facility is in the public interest.

(e) To the extent not inconsistent with state and federal regulations, the secretary shall render a decision on a permit application within one year after submission of a complete application.

(f) The secretary shall propose rules for legislative approval, pursuant to the provisions of §29A-3-1 *et seq.* of this code, detailing additional requirements for inclusion in a permit application, such as:

(1) Site characterization requirements;

(2) Injection well construction requirements for materials that are compatible with and can withstand contact with carbon dioxide over the life of a carbon dioxide sequestration project;

(3) Well operation requirements;

(4) Comprehensive monitoring requirements that address all aspects of well integrity, carbon dioxide injection and storage, as well as air and ground water quality during the injection operation and the post-injection site care period;

(5) Financial responsibility requirements assuring the availability of funds for the life of a carbon dioxide sequestration project (including post-injection site care and emergency response); and

(6) Reporting and recordkeeping requirements that provide project-specific information to continually evaluate the site operations and confirm environmental protection.