

Subtitle F—Carbon Capture

Sec. 361. Large-scale carbon storage program.

Sec. 362. Training program for State agencies.

1 **Subtitle F—Carbon Capture**

2 **SEC. 361. LARGE-SCALE CARBON STORAGE PROGRAM.**

3 (a) IN GENERAL.—Subtitle F of title IX of the En-
4 ergy Policy Act of 2005 (42 U.S.C. 16291 et seq.) is
5 amended by inserting after section 963 (42 U.S.C. 16293)
6 the following:

7 **“SEC. 963A. LARGE-SCALE CARBON STORAGE PROGRAM.**

8 “(a) DEFINITIONS.—In this section:

9 “(1) INDUSTRIAL SOURCE.—The term ‘indus-
10 trial source’ means any source of carbon dioxide that
11 is not naturally occurring.

12 “(2) LARGE-SCALE.—The term ‘large-scale’
13 means the injection of over 1,000,000 tons of carbon
14 dioxide each year from industrial sources into a geo-
15 logical formation.

16 “(3) SECRETARY CONCERNED.—The term ‘Sec-
17 retary concerned’ means—

18 “(A) the Secretary of Agriculture (acting
19 through the Chief of the Forest Service), with
20 respect to National Forest System land; and

21 “(B) the Secretary of the Interior, with re-
22 spect to land managed by the Bureau of Land

1 Management (including land held for the ben-
2 efit of an Indian tribe).

3 “(b) PROGRAM.—In addition to the research, develop-
4 ment, and demonstration program authorized by section
5 963, the Secretary shall carry out a program to dem-
6 onstrate the commercial application of integrated systems
7 for the capture, injection, monitoring, and long-term geo-
8 logical storage of carbon dioxide from industrial sources.

9 “(c) AUTHORIZED ASSISTANCE.—In carrying out the
10 program, the Secretary may enter into cooperative agree-
11 ments to provide financial and technical assistance to up
12 to 10 demonstration projects.

13 “(d) PROJECT SELECTION.—The Secretary shall
14 competitively select recipients of cooperative agreements
15 under this section from among applicants that—

16 “(1) provide the Secretary with sufficient geo-
17 logical site information (including hydrogeological
18 and geophysical information) to establish that the
19 proposed geological storage unit is capable of long-
20 term storage of the injected carbon dioxide, includ-
21 ing—

22 “(A) the location, extent, and storage ca-
23 pacity of the geological storage unit at the site
24 into which the carbon dioxide will be injected;

1 “(B) the principal potential modes of
2 geomechanical failure in the geological storage
3 unit;

4 “(C) the ability of the geological storage
5 unit to retain injected carbon dioxide; and

6 “(D) the measurement, monitoring, and
7 verification requirements necessary to ensure
8 adequate information on the operation of the
9 geological storage unit during and after the in-
10 jection of carbon dioxide;

11 “(2) possess the land or interests in land nec-
12 essary for—

13 “(A) the injection and storage of the car-
14 bon dioxide at the proposed geological storage
15 unit; and

16 “(B) the closure, monitoring, and long-
17 term stewardship of the geological storage unit;

18 “(3) possess or have a reasonable expectation of
19 obtaining all necessary permits and authorizations
20 under applicable Federal and State laws (including
21 regulations); and

22 “(4) agree to comply with each requirement of
23 subsection (e).

24 “(e) TERMS AND CONDITIONS.—The Secretary shall
25 condition receipt of financial assistance pursuant to a co-

1 operative agreement under this section on the recipient
2 agreeing to—

3 “(1) comply with all applicable Federal and
4 State laws (including regulations), including a cer-
5 tification by the appropriate regulatory authority
6 that the project will comply with Federal and State
7 requirements to protect drinking water supplies;

8 “(2) in the case of industrial sources subject to
9 the Clean Air Act (42 U.S.C. 7401 et seq.), inject
10 only carbon dioxide captured from industrial sources
11 in compliance with that Act;

12 “(3) comply with all applicable construction and
13 operating requirements for deep injection wells;

14 “(4) measure, monitor, and test to verify that
15 carbon dioxide injected into the injection zone is
16 not—

17 “(A) escaping from or migrating beyond
18 the confinement zone; or

19 “(B) endangering an underground source
20 of drinking water;

21 “(5) comply with applicable well-plugging, post-
22 injection site care, and site closure requirements, in-
23 cluding—

24 “(A)(i) maintaining financial assurances
25 during the post-injection closure and monitoring

1 phase until a certificate of closure is issued by
2 the Secretary; and

3 “(ii) promptly undertaking remediation ac-
4 tivities for any leak from the geological storage
5 unit that would endanger public health or safe-
6 ty or natural resources; and

7 “(B) complying with subsection (f);

8 “(6) comply with applicable long-term care re-
9 quirements;

10 “(7) maintain financial protection in a form
11 and in an amount acceptable to—

12 “(A) the Secretary;

13 “(B) the Secretary with jurisdiction over
14 the land; and

15 “(C) the Administrator of the Environ-
16 mental Protection Agency; and

17 “(8) provide the assurances described in section
18 963(d)(4)(B).

19 “(f) POST INJECTION CLOSURE AND MONITORING
20 ELEMENTS.—In assessing whether a project complies with
21 site closure requirements under subsection (e)(5), the Sec-
22 retary, in consultation with the Administrator of the Envi-
23 ronmental Protection Agency, shall determine whether the
24 recipient of financial assistance has demonstrated contin-
25 uous compliance with each of the following over a period

1 of not less than 10 consecutive years after the plume of
2 carbon dioxide has stabilized within the geologic formation
3 that comprises the geologic storage unit following the ces-
4 sation of injection activities:

5 “(1) The estimated location and extent of the
6 project footprint (including the detectable plume of
7 carbon dioxide and the area of elevated pressure re-
8 sulting from the project) has not substantially
9 changed and is contained within the geologic storage
10 unit.

11 “(2) The injection zone formation pressure has
12 ceased to increase following cessation of carbon diox-
13 ide injection into the geologic storage unit.

14 “(3) There is no leakage of either carbon diox-
15 ide or displaced formation fluid from the geologic
16 storage unit that is endangering public health and
17 safety, including underground sources of drinking
18 water and natural resources.

19 “(4) The injected or displaced formation fluids
20 are not expected to migrate in the future in a man-
21 ner that encounters a potential leakage pathway.

22 “(5) The injection wells at the site completed
23 into or through the injection zone or confining zone
24 are plugged and abandoned in accordance with the

1 applicable requirements of Federal or State law gov-
2 erning the wells.

3 “(g) INDEMNIFICATION AGREEMENTS.—

4 “(1) DEFINITION OF LIABILITY.—In this sub-
5 section, the term ‘liability’ means any legal liability
6 for—

7 “(A) bodily injury, sickness, disease, or
8 death;

9 “(B) loss of or damage to property, or loss
10 of use of property; or

11 “(C) injury to or destruction or loss of nat-
12 ural resources, including fish, wildlife, and
13 drinking water supplies.

14 “(2) AGREEMENTS.—The Secretary may agree
15 to indemnify and hold harmless the recipient of a co-
16 operative agreement under this section from liability
17 arising out of or resulting from a demonstration
18 project in excess of the amount of liability covered
19 by financial protection maintained by the recipient
20 under subsection (e)(7).

21 “(3) EXCEPTION FOR GROSS NEGLIGENCE AND
22 INTENTIONAL MISCONDUCT.—Notwithstanding para-
23 graph (1), the Secretary may not indemnify the re-
24 cipient of a cooperative agreement under this section
25 from liability arising out of conduct of a recipient

1 that is grossly negligent or that constitutes inten-
2 tional misconduct.

3 “(4) COLLECTION OF FEES.—

4 “(A) IN GENERAL.—The Secretary shall
5 collect a fee from any person with whom an
6 agreement for indemnification is executed under
7 this subsection in an amount that is equal to
8 the net present value of payments made by the
9 United States to cover liability under the in-
10 demnification agreement.

11 “(B) AMOUNT.—The Secretary shall estab-
12 lish, by regulation, criteria for determining the
13 amount of the fee, taking into account—

14 “(i) the likelihood of an incident re-
15 sulting in liability to the United States
16 under the indemnification agreement; and

17 “(ii) other factors pertaining to the
18 hazard of the indemnified project.

19 “(C) USE OF FEES.—Fees collected under
20 this paragraph shall be deposited in the Treas-
21 ury and credited to miscellaneous receipts.

22 “(5) CONTRACTS IN ADVANCE OF APPROPRIA-
23 TIONS.—The Secretary may enter into agreements
24 of indemnification under this subsection in advance
25 of appropriations and incur obligations without re-

1 gard to section 1341 of title 31, United States Code
2 (commonly known as the ‘Anti-Deficiency Act’), or
3 section 11 of title 41, United States Code (com-
4 monly known as the ‘Adequacy of Appropriations
5 Act’).

6 “(6) CONDITIONS OF AGREEMENTS OF INDEM-
7 NIFICATION.—

8 “(A) IN GENERAL.—An agreement of in-
9 demnification under this subsection may con-
10 tain such terms as the Secretary considers ap-
11 propriate to carry out the purposes of this sec-
12 tion.

13 “(B) ADMINISTRATION.—The agreement
14 shall provide that, if the Secretary makes a de-
15 termination the United States will probably be
16 required to make indemnity payments under the
17 agreement, the Attorney General—

18 “(i) shall collaborate with the recipi-
19 ent of an award under this subsection; and

20 “(ii) may—

21 “(I) approve the payment of any
22 claim under the agreement of indem-
23 nification;

24 “(II) appear on behalf of the re-
25 cipient;

1 “(III) take charge of an action;

2 and

3 “(IV) settle or defend an action.

4 “(C) SETTLEMENT OF CLAIMS.—

5 “(i) IN GENERAL.—The Attorney
6 General shall have final authority on behalf
7 of the United States to settle or approve
8 the settlement of any claim under this sub-
9 section on a fair and reasonable basis with
10 due regard for the purposes of this sub-
11 section.

12 “(ii) EXPENSES.—The settlement
13 shall not include expenses in connection
14 with the claim incurred by the recipient.

15 “(h) FEDERAL LAND.—

16 “(1) IN GENERAL.—The Secretary concerned
17 may authorize the siting of a project on Federal
18 land under the jurisdiction of the Secretary con-
19 cerned in a manner consistent with applicable laws
20 and land management plans and subject to such
21 terms and conditions as the Secretary concerned de-
22 termines to be necessary.

23 “(2) FRAMEWORK FOR GEOLOGICAL CARBON
24 SEQUESTRATION ON PUBLIC LAND.—In determining
25 whether to authorize a project on Federal land, the

1 Secretary concerned shall take into account the
2 framework for geological carbon sequestration on
3 public land prepared in accordance with section 714
4 of the Energy Independence and Security Act of
5 2007 (Public Law 110–140; 121 Stat. 1715).

6 “(i) ACCEPTANCE OF TITLE AND LONG-TERM MONI-
7 TORING.—

8 “(1) IN GENERAL.—As a condition of a cooper-
9 ative agreement under this section, the Secretary
10 may accept title to, or transfer of administrative ju-
11 risdiction from another Federal agency over, any
12 land or interest in land necessary for the monitoring,
13 remediation, or long-term stewardship of a project
14 site.

15 “(2) LONG-TERM MONITORING ACTIVITIES.—
16 After accepting title to, or transfer of, a site closed
17 in accordance with this section, the Secretary shall
18 monitor the site and conduct any remediation activi-
19 ties to ensure the geological integrity of the site and
20 prevent any endangerment of public health or safety.

21 “(3) FUNDING.—There is appropriated to the
22 Secretary, out of funds of the Treasury not other-
23 wise appropriated, such sums as are necessary to
24 carry out paragraph (2).”.

25 (b) CONFORMING AMENDMENTS.—

1 (1) Section 963 of the Energy Policy Act of
2 2005 (42 U.S.C. 16293) is amended—

3 (A) by redesignating subsections (a)
4 through (d) as subsections (b) through (e), re-
5 spectively;

6 (B) by inserting before subsection (b) (as
7 so redesignated) the following:

8 “(a) DEFINITIONS.—In this section:

9 “(1) INDUSTRIAL SOURCE.—The term ‘indus-
10 trial source’ means any source of carbon dioxide that
11 is not naturally occurring.

12 “(2) LARGE-SCALE.—The term ‘large-scale’
13 means the injection of over 1,000,000 tons of carbon
14 dioxide from industrial sources over the lifetime of
15 the project.”;

16 (C) in subsection (b) (as so redesignated),
17 by striking “IN GENERAL” and inserting “PRO-
18 GRAM”;

19 (D) in subsection (c) (as so redesignated),
20 by striking “subsection (a)” and inserting “sub-
21 section (b)”;

22 (E) in subsection (d)(3) (as so redesign-
23 ated), by striking subparagraph (D).

24 (2) Sections 703(a)(3) and 704 of the Energy
25 Independence and Security Act of 2007 (42 U.S.C.

1 17251(a)(3), 17252) are amended by striking “sec-
2 tion 963(c)(3) of the Energy Policy Act of 2005 (42
3 U.S.C. 16293(c)(3))” each place it appears and in-
4 serting “section 963(d)(3) of the Energy Policy Act
5 of 2005 (42 U.S.C. 16293(d)(3))”.

6 **SEC. 362. TRAINING PROGRAM FOR STATE AGENCIES.**

7 (a) ESTABLISHMENT.—The Secretary of Energy, in
8 consultation with the Administrator of the Environmental
9 Protection Agency and the Secretary of Transportation,
10 shall establish a program to provide grants for employee
11 training purposes to State agencies involved in permitting,
12 management, inspection, and oversight of carbon capture,
13 transportation, and storage projects.

14 (b) AUTHORIZATION OF APPROPRIATIONS.—There is
15 authorized to be appropriated to the Secretary of Energy
16 to carry out this section \$10,000,000 for each of fiscal
17 years 2010 through 2020.