S T A T E O F N E W Y O R K

5836--A

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. PARMENT -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to specifying ownership of pore space in strata underlying the surface of land and water; and in relation to geologic carbon dioxide sequestration

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. It is the intent of the legislature to clarify the ownership of pore space underlying the surface of the lands and waters of this state. All conveyances of interests in real property on and after the effective date of this act shall be subject to the provisions of this act. All conveyances of real property made prior to the effective date of this act shall be construed in accordance with the provisions of this act unless a person claiming an ownership interest contrary to the provisions of this act establishes such ownership by a preponderance of the evidence in an action to establish ownership of such interest.

S 2. The environmental conservation law is amended by adding a new section 23-1309 to read as follows:

S 23-1309. OWNERSHIP OF PORE SPACE UNDERLYING SURFACES.

1. THE OWNERSHIP OF ALL PORE SPACE IN ALL STRATA BELOW THE SURFACE LANDS AND WATERS OF THIS STATE IS DECLARED TO BE VESTED IN THE SEVERAL OWNERS OF THE SURFACE ABOVE THE STRATA.

2. A CONVEYANCE OF THE SURFACE OWNERSHIP OF REAL PROPERTY SHALL BE A CONVEYANCE OF THE PORE SPACE IN ALL STRATA BELOW THE SURFACE OF SUCH REAL PROPERTY UNLESS THE OWNERSHIP INTEREST IN SUCH PORE SPACE PREVIOUSLY HAS BEEN SEVERED FROM THE SURFACE OWNERSHIP OR IS EXPLICITLY EXCLUDED IN THE CONVEYANCE. THE OWNERSHIP OF PORE SPACE IN STRATA MAY BE CONVEYED

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

LBD07405-06-9

IN THE MANNER PROVIDED BY LAW FOR THE TRANSFER OF INTERESTS IN REAL PROPERTY. NO AGREEMENT CONVEYING MINERAL OR OTHER INTERESTS UNDERLYING THE SURFACE SHALL ACT TO CONVEY OWNERSHIP OF ANY PORE SPACE IN THE STRATUM UNLESS THE AGREEMENT EXPLICITLY CONVEYS THAT OWNERSHIP INTEREST.

3. AS USED IN THIS SECTION, THE TERM "PORE SPACE" IS DEFINED TO MEAN SUBSURFACE SPACE OF ANY SIZE AND WHETHER VACANT OR FILLED WHICH CAN BE USED AS STORAGE SPACE FOR SUBSTANCES INJECTED INTO THE SPACE FOR STORAGE SEQUESTRATION.

4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CHANGE OR ALTER MINERAL RIGHTS WHICH EXISTED PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

5. ALL INSTRUMENTS WHICH TRANSFER THE RIGHTS TO PORE SPACE UNDER THIS SECTION SHALL DESCRIBE THE SCOPE OF ANY RIGHT TO USE THE SURFACE ESTATE. THE OWNER OF ANY PORE SPACE RIGHT SHALL HAVE NO RIGHT TO USE THE SURFACE ESTATE BEYOND THAT SET OUT IN A PROPERLY RECORDED INSTRUMENT.

6. TRANSFERS OF PORE SPACE RIGHTS MADE AFTER THE EFFECTIVE DATE OF THIS SECTION ARE NULL AND VOID AT THE OPTION OF THE OWNER OF THE SURFACE ESTATE IF THE TRANSFER INSTRUMENT DOES NOT CONTAIN A SPECIFIC DESCRIPTION OF THE LOCATION OF THE PORE SPACE. THE VALIDITY OF PORE SPACE RIGHTS UNDER THIS SUBDIVISION SHALL NOT AFFECT THE RESPECTIVE LIABILITIES OF ANY PARTY AND SUCH LIABILITIES SHALL OPERATE IN THE SAME MANNER AS IF THE PORE SPACE TRANSFER WERE VALID.

7. THIS SECTION SHALL NOT ALTER ANY LAW OF THE STATE REGARDING MINERAL RIGHTS AND ANY RIGHT CREATED HEREUNDER SHALL NOT LIMIT THE RIGHT OF A MINERAL OWNER OR HIS LESSEE TO ESTABLISH REASONABLE USE OF THE SURFACE FOR THE PURPOSE OF MINERAL EXPLORATION AND PRODUCTION.

S 3. Article 23 of the environmental conservation law is amended by adding a new title 14 to read as follows:

TITLE 14

GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE

SECTION 23-1401. LEGISLATIVE INTENT.
23-1403. DEFINITIONS.
23-1405. OIL AND GAS ACTIVITIES AT GEOLOGIC CARBON DIOXIDE SEQUESTRATION SITES.
23-1407. CARBON DIOXIDE SEQUESTRATION; PERMIT REQUIREMENTS.
23-1409. PROCEDURE FOR OBTAINING UNDERGROUND CARBON DIOXIDE SEQUESTRATION PERMIT.
23-1411. AUTHORITY TO ACQUIRE PORE SPACE FOR CARBON DIOXIDE SEQUESTRATION.
23-1413. IMPAIRMENT OF APPROVED PROJECTS.
23-1415. LIABILITY.

S 23-1401. LEGISLATIVE INTENT.

IT IS THE INTENT OF THE LEGISLATURE TO CLARIFY LEGAL AUTHORITY TO PERMIT CARBON DIOXIDE SEQUESTRATION AND TO PROVIDE THE DEPARTMENT WITH THE AUTHORITY TO REGULATE CARBON DIOXIDE SEQUESTRATION.

S 23-1403. DEFINITIONS.

AS USED IN THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "GEOLOGIC CARBON DIOXIDE INJECTION AND SEQUESTRATION" MEANS THE INJECTION OF CARBON DIOXIDE AND ASSOCIATED CONSTITUENTS INTO SUBSURFACE GEOLOGIC FORMATIONS INTENDED TO PREVENT ITS RELEASE INTO THE ATMOSPHERE.

2. "GEOLOGIC SEQUESTRATION SITE" MEANS THE UNDERGROUND GEOLOGIC FORMATIONS WHERE THE CARBON DIOXIDE IS INTENDED TO BE STORED.

3. "GEOLOGIC SEQUESTRATION FACILITIES" MEANS THE SURFACE EQUIPMENT USED FOR TRANSPORT, STORAGE AND INJECTION OF CARBON DIOXIDE.

S 23-1405. OIL AND GAS ACTIVITIES AT GEOLOGIC CARBON DIOXIDE SEQUESTRATION SITES.

NOTHING IN SECTION 23-1407 OF THIS TITLE SHALL BE DEEMED TO AFFECT THE OTHERWISE LAWFUL RIGHT OF A SURFACE OR MINERAL OWNER TO DRILL OR BORE THROUGH A GEOLOGIC CARBON DIOXIDE SEQUESTRATION SITE AS DEFINED BY SECTION 23-1403 OF THIS TITLE IF DONE IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE DEPARTMENT FOR PROTECTING THE GEOLOGIC CARBON DIOXIDE SEQUESTRATION SITE AGAINST THE ESCAPE OF CARBON DIOXIDE.

S 23-1407. CARBON DIOXIDE SEQUESTRATION; PERMIT REQUIREMENTS.

1. THE GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE IS PROHIBITED UNLESS AUTHORIZED BY A PERMIT ISSUED BY THE DEPARTMENT.

2. THE INJECTION OF CARBON DIOXIDE FOR PURPOSES OF A PROJECT FOR ENHANCED RECOVERY OF OIL OR OTHER MINERALS APPROVED BY THE DEPARTMENT SHALL BE SUBJECT TO THE PROVISIONS OF THIS TITLE.

3. THE DEPARTMENT, AFTER RECEIVING PUBLIC COMMENT AND AFTER CONSULTATION WITH THE STATE GEOLOGIST SHALL RECOMMEND TO THE COMMISSIONER RULES, REGULATIONS AND STANDARDS FOR:

(A) THE CREATION OF SUBCLASSES OF WELLS WITHIN THE EXISTING UNDERGROUND INJECTION CONTROL (UIC) PROGRAM ADMINISTERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY UNDER PART C OF THE SAFE DRINKING WATER ACT TO PROTECT HUMAN HEALTH, SAFETY AND THE ENVIRONMENT AND ALLOW FOR THE PERMITTING OF THE GEOLOGIC SEQUESTRATION OF CARBON DIOXIDE;

(B) REQUIREMENTS FOR THE CONTENT OF APPLICATIONS FOR GEOLOGIC SEQUESTRATION PERMITS. SUCH APPLICATIONS SHALL INCLUDE:

(I) A DESCRIPTION OF THE GENERAL GEOLOGY OF THE AREA TO BE AFFECTED BY THE INJECTION OF CARBON DIOXIDE INCLUDING GEOCHEMISTRY, STRUCTURE AND FAULTING, FRACTURING AND SEALS, STRATIGRAPHY AND LITHOLOGY INCLUDING PETROPHYSICAL ATTRIBUTES;

(II) A CHARACTERIZATION OF THE INJECTION ZONE AND AQUIFERS ABOVE AND BELOW THE INJECTION ZONE WHICH MAY BE AFFECTED INCLUDING APPLICABLE PRESSURE AND FLUID CHEMISTRY DATA TO DESCRIBE THE PROJECTED EFFECTS OF INJECTION ACTIVITIES;

(III) THE IDENTIFICATION OF ALL OTHER DRILL HOLES AND OPERATING WELLS THAT EXIST WITHIN AND ADJACENT TO THE PROPOSED SEQUESTRATION SITE;

(IV) AN ASSESSMENT OF THE IMPACT TO FLUID RESOURCES ON SUBSURFACE STRUCTURES AND THE SURFACE OF LANDS THAT MAY REASONABLY BE EXPECTED TO BE IMPACTED AND THE MEASURES REQUIRED TO MITIGATE SUCH IMPACTS;

(V) PLANS AND PROCEDURES FOR ENVIRONMENTAL SURVEILLANCE AND EXCURSION DETECTION, PREVENTION AND CONTROL PROGRAMS. FOR PURPOSES OF THIS SECTION, "EXCURSION" SHALL MEAN THE DETECTION OF MIGRATING CARBON DIOXIDE AT OR BEYOND THE BOUNDARY OF THE GEOLOGIC SEQUESTRATION SITE;

(VI) A SITE AND FACILITIES DESCRIPTION, INCLUDING A DESCRIPTION OF THE PROPOSED GEOLOGIC SEQUESTRATION FACILITIES AND DOCUMENTATION SUFFICIENT TO DEMONSTRATE THAT THE APPLICANT HAS THE LEGAL RIGHT TO SEQUESTER CARBON DIOXIDE AND ASSOCIATED CONSTITUENTS INTO THE PROPOSED GEOLOGIC SEQUESTRATION SITE;

(VII) PROOF THAT THE PROPOSED INJECTION WELLS ARE, AT A MINIMUM, DESIGNED TO THE CONSTRUCTION STANDARDS SET FORTH BY THE DEPARTMENT;

(VIII) A PLAN FOR PERIODIC MECHANICAL INTEGRITY TESTING OF ALL WELLS;

(IX) A MONITORING PLAN TO ASSESS THE MIGRATION OF THE INJECTED CARBON DIOXIDE AND TO ENSURE THE RETENTION OF THE CARBON DIOXIDE IN THE GEOLOGIC SEQUESTRATION SITE. SUCH MONITORING PLAN SHALL INCLUDE PROVISIONS FOR INDEPENDENT TESTING AND MONITORING OF THE INJECTED CARBON DIOXIDE ACCEPTABLE TO THE DEPARTMENT;

(X) PROOF OF BONDING AND FINANCIAL ASSURANCE TO ENSURE THAT GEOLOGIC SEQUESTRATION SITES AND FACILITIES WILL BE CONSTRUCTED, OPERATED AND

MAINTAINED IN ACCORDANCE WITH THE PURPOSES AND PROVISIONS OF THIS TITLE AND THE RULES AND REGULATIONS PROMULGATED HEREUNDER;

(XI) A DETAILED PLAN FOR POST-INJECTION MONITORING, VERIFICATION, MAINTENANCE AND MITIGATION;

(XII) PROOF OF NOTICE TO SURFACE OWNERS, MINERAL OWNERS AND OTHER OWNERS OF RECORD OF SUBSURFACE INTERESTS AS TO THE CONTENTS OF SUCH NOTICE. NOTICE REQUIREMENTS SHALL AT A MINIMUM REQUIRE:

(A) THE PUBLISHING OF NOTICE OF THE APPLICATION IN A NEWSPAPER OF GENERAL CIRCULATION IN EACH COUNTY OF THE PROPOSED OPERATION AT WEEKLY INTERVALS FOR FOUR CONSECUTIVE WEEKS; AND

(B) A COPY OF THE NOTICE SHALL ALSO BE MAILED TO ALL SURFACE OWNERS, MINERAL OWNERS AND LESSEES OF RECORD LOCATED WITHIN ONE MILE OF THE PROPOSED BOUNDARY OF THE GEOLOGIC SEQUESTRATION SITE AND THE OWNERS OF RECORD OF OTHER SUBSURFACE INTERESTS.

(C) REQUIREMENTS FOR THE OPERATOR TO PROVIDE IMMEDIATE NOTICE TO THE DEPARTMENT OF ANY EXCURSION AFTER THE EXCURSION IS DISCOVERED, FOLLOWED BY WRITTEN NOTICE TO ALL SURFACE OWNERS, MINERAL OWNERS AND OWNERS OF RECORD OF SUBSURFACE INTERESTS WITHIN THIRTY DAYS OF WHEN THE EXCURSION IS DISCOVERED;

(D) PROCEDURES FOR THE TERMINATION OR MODIFICATION OF ANY APPLICABLE UNDERGROUND INJECTION CONTROL (UIC) PERMIT ISSUED UNDER PART C OF THE SAFE DRINKING WATER ACT IF AN EXCURSION CANNOT BE CONTROLLED OR MITIGATED; AND

(E) SUCH OTHER CONDITIONS AND REQUIREMENTS AS NECESSARY TO CARRY OUT THIS SECTION.

4. THE DEPARTMENT SHALL HAVE JURISDICTION OVER ANY SUBSEQUENT EXTRACTION OF SEQUESTERED CARBON DIOXIDE THAT IS INTENDED FOR COMMERCIAL OR INDUSTRIAL PURPOSES.

S 23-1409. PROCEDURE FOR OBTAINING UNDERGROUND CARBON DIOXIDE SEQUESTRATION PERMIT.

1. NO UNDERGROUND RESERVOIR SHALL BE DEVOTED TO THE SEQUESTRATION OF CARBON DIOXIDE UNLESS THE PROSPECTIVE OPERATOR OF SUCH SEQUESTRATION RESERVOIR SHALL HAVE RECEIVED FROM THE DEPARTMENT, AFTER APPROVAL IN WRITING OF THE STATE GEOLOGIST, AN UNDERGROUND SEQUESTRATION PERMIT WHICH SHALL BE IN FULL FORCE. THE APPLICATION FOR SAID PERMIT SHALL INCLUDE THE FOLLOWING:

(A) A MAP SHOWING THE LOCATION AND BOUNDARIES OF THE PROPOSED UNDERGROUND SEQUESTRATION RESERVOIR;

(B) A REPORT CONTAINING SUFFICIENT DATA TO SHOW THAT THE RESERVOIR IS ADAPTABLE FOR SEQUESTRATION PURPOSES;

(C) AN AFFIDAVIT SIGNED BY THE PROSPECTIVE OPERATOR TO THE EFFECT THAT HE HAS OWNERSHIP OF AT LEAST SEVENTY-FIVE PERCENT OF THE PORE SPACE RIGHTS IN THE TARGETED GEOLOGIC STRATA AND IN THE BUFFER ZONE ESTABLISHED TO PROTECT THE SEQUESTRATION AS APPROVED BY THE DEPARTMENT, CALCULATED ON THE BASIS OF SURFACE ACREAGE; AND SUCH AFFIDAVIT SHALL ALSO SET FORTH THAT THE APPLICANT WILL AGREE AS A CONDITION TO THE INSURANCE OF SUCH PERMIT THAT IT WILL THEREAFTER WITHIN A REASONABLE TIME EITHER ACQUIRE BY NEGOTIATION, OR FILE AND PROCEED WITH CONDEMNATION PROCEEDINGS TO ACQUIRE, ANY OUTSTANDING PORE SPACE RIGHTS IN THE REMAINING RESERVOIR AND BUFFER ZONE ACREAGE; AND

(D) SUCH OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE.

2. THE PERMIT SHALL BE GRANTED WITHIN NINETY DAYS OF APPLICATION UNLESS THE DEPARTMENT FINDS THAT THE APPLICATION AND THE INFORMATION SUBMITTED WITH IT DO NOT MEET THE REQUIREMENTS OF THIS SECTION. THE DEPARTMENT MAY REVOKE OR SUSPEND ANY UNDERGROUND SEQUESTRATION PERMIT IN

FORCE HEREUNDER FOR FAILURE TO COMPLY WITH ANY OF ITS PROVISIONS OR FOR FAILURE TO COMPLY WITH SUBDIVISION THREE OF THIS SECTION.

3. EVERY OPERATOR SHALL FILE WITH THE DEPARTMENT ON OR BEFORE DECEMBER THIRTY-FIRST OF EACH YEAR, A REPORT WITH RESPECT TO EACH UNDERGROUND SEQUESTRATION OPERATED BY SUCH PERSON SHOWING ANY CHANGE IN:

(A) THE ESTIMATED SIZE IN SURFACE ACREAGE OR SHAPE OF THE RESERVOIR AND THE BUFFER ZONE IF ANY;

(B) AN ESTIMATE OF TOTAL CAPACITY OF THE RESERVOIR;

(C) AN ESTIMATE OF WORKING CAPACITY OF THE RESERVOIR; AND

(D) ANY OTHER ENGINEERING, GEOLOGICAL OR OPERATIONAL DATA THAT MAY BE REQUESTED BY THE DEPARTMENT.

4. THE APPLICANT FOR A PERMIT FOR THE FOLLOWING PURPOSES SHALL SUBMIT WITH HIS APPLICATION THE FOLLOWING FEES:

(A) FOR A NEW UNDERGROUND SEQUESTRATION RESERVOIR, A FEE OF TEN THOUSAND DOLLARS; AND

(B) FOR A MODIFICATION OF THE SEQUESTRATION CAPACITY OF AN EXISTING UNDERGROUND SEQUESTRATION RESERVOIR, A FEE OF FIVE THOUSAND DOLLARS.

S 23-1411. AUTHORITY TO ACQUIRE PORE SPACE FOR CARBON DIOXIDE SEQUESTRATION.

1. ANY REGULATED PUBLIC UTILITY OR MUNICIPAL ELECTRIC CORPORATION ENGAGED IN THE PRODUCTION OF ELECTRIC ENERGY FOR PUBLIC USE, WHICH HOLDS AN UNDERGROUND SEQUESTRATION PERMIT FROM THE DEPARTMENT AND WHICH AFTER REASONABLE EFFORT IS UNABLE TO OBTAIN PORE SPACE RIGHTS IN REAL PROPERTY AND WELLS THEREON NECESSARY FOR ACTIVATION, OPERATION, OR PROTECTION OF THE SEQUESTRATION RESERVOIR AND ITS BUFFER ZONE SHALL, SUBJECT TO THE APPLICABLE PROVISIONS OF THE EMINENT DOMAIN PROCEDURE LAW, HAVE THE AUTHORITY TO ACQUIRE SUCH PORE SPACE RIGHTS AS MAY BE REQUIRED ADEQUATELY TO EXAMINE, PREPARE, MAINTAIN, OPERATE AND PROTECT, AND FOR ACCESS TO SUCH UNDERGROUND SEQUESTRATION RESERVOIR AND ITS BUFFER ZONE.

2. UNDERGROUND SEQUESTRATION OPERATORS AUTHORIZED BY THIS SECTION TO MAINTAIN ACQUISITION PROCEEDINGS BEFORE FILING A SUIT FOR SUCH ACQUISITION SHALL HAVE FILED WITH THE DEPARTMENT A MAP SHOWING THE LOCATION, BOUNDARIES AND ESTIMATED SIZE OF SURFACE ACREAGE OF THE UNDERGROUND SEQUESTRATION RESERVOIR AND ITS BUFFER ZONE.

3. ANY PERMIT HOLDER FOR AN UNDERGROUND CARBON DIOXIDE SEQUESTRATION RESERVOIR WHO AT ANY TIME CONTROLS LESS THAN ONE HUNDRED PERCENT OF THE PORE SPACE RIGHTS WITHIN THAT RESERVOIR AND ITS BUFFER ZONE IS PROHIBITED FROM INJECTING CARBON DIOXIDE INTO SUCH RESERVOIR.

4. ANY OPERATOR WHO SEEKS TO ACQUIRE UNDERGROUND CARBON DIOXIDE SEQUESTRATION AND BUFFER ZONE PORE SPACE RIGHTS AS AUTHORIZED BY THIS SECTION SHALL NAME AS PARTIES DEFENDANT ALL THE OWNERS OF ALL THE PARCELS OF PROPERTY LOCATED WITHIN THE BOUNDARIES OF THE RESERVOIR AND ITS BUFFER ZONE FROM WHOM PORE SPACE RIGHTS HAVE NOT PREVIOUSLY BEEN LEGALLY ACQUIRED BY GRANT, LEASE, OR OTHER VOLUNTARY AGREEMENT; PROVIDED, HOWEVER, THAT A FAILURE TO JOIN THE OWNERS OF ANY PARCEL IN THE RESERVOIR AND ITS BUFFER ZONE DUE TO INADVERTENCE SHALL NOT CONSTITUTE A JURISDICTIONAL DEFECT IN ANY PROCEEDING OF ACQUISITION.

5. THE VALUE OF ANY PROPERTY ACQUIRED PURSUANT TO THIS SECTION SHALL INCLUDE THE VALUE OF ANY COMMERCIALLY RECOVERABLE NATIVE OIL AND GAS IN PLACE TO THE EXTENT THAT THE HOLDER OF THE PROPERTY INTEREST BEING ACQUIRED HAS A RIGHT THERETO. THE SAME PROVISION SHALL APPLY TO THE HOLDER OF SALT RIGHTS.

6. THE COST OF, OR POSSIBLE NECESSITY FOR, PLUGGING ANY WELL OR WELLS, WHEN SUCH PLUGGING OR REPLUGGING IS OR MAY BE MADE NECESSARY BY REASON OF THE SEQUESTRATION USE MADE POSSIBLE OR FACILITATED BY ACQUISITION

SHALL NOT BE CONSIDERED IN COMPUTING THE VALUE OF PROPERTY OR ANY INTEREST THEREIN TAKEN UNDER THIS SECTION.

S 23-1413. IMPAIRMENT OF APPROVED PROJECTS.

NOTHING IN THIS TITLE IS INTENDED TO IMPEDE OR IMPAIR THE ABILITY OF AN OIL AND GAS OPERATOR TO INJECT CARBON DIOXIDE THROUGH AN APPROVED ENHANCED OIL OR GAS RECOVERY PROJECT AND ESTABLISH, VERIFY, REGISTER AND SELL EMISSION REDUCTION CREDITS ASSOCIATED WITH THE PROJECT.

S 23-1415. LIABILITY.

OPERATIONAL LIABILITY SHALL REST WITH THE PERSON WHO HAS OWNERSHIP OF AND CONTROL OVER THE PRODUCTION, CAPTURE, COMPRESSION, TRANSPORTATION, INJECTION AND POST-INJECTION MONITORING OF CARBON DIOXIDE. THE OPERATIONAL LIABILITY SHALL INCLUDE BUT NOT BE LIMITED TO ALL DAMAGE CAUSED BY THE OPERATIONS NECESSARY TO CAPTURE, COMPRESS, TRANSPORT, INJECT AND MONITOR CARBON DIOXIDE GENERATED BY THE OWNER OF THE SOURCE OF CARBON DIOXIDE. THE OPERATOR SHALL PROVIDE INSURANCE AND BONDING SUFFICIENT TO REASONABLY COMPENSATE INJURED PERSONS OR PARTIES FOR ALL AND ANY DAMAGES INFLICTED BY THE OWNER'S OPERATIONS. SUFFICIENCY OF INSURANCE AND BONDING WILL BE DETERMINED BY THE DEPARTMENT AFTER HEARING AND CONSULTATION WITH THE STATE INSURANCE DEPARTMENT.

POST-INJECTION LIABILITY SHALL FOR A PERIOD OF TEN YEARS REST WITH THE OWNER OF THE SEQUESTRATED CARBON DIOXIDE WHO SHALL HAVE A RESPONSIBILITY TO MONITOR THE SEQUESTRATED CARBON DIOXIDE AND ASSURE THAT INCURSION IS NOT OCCURRING AND HAS NOT OCCURRED. WHEN THE OWNER OF THE SEQUESTRATED CARBON DIOXIDE HAS DEMONSTRATED TO THE STATE THAT NO MIGRATION OF CARBON DIOXIDE HAS OCCURRED AND THAT ACCESS TO THE CARBON DIOXIDE HAS BEEN PROPERLY SEALED TO THE SATISFACTION OF THE DEPARTMENT THE LONG TERM POST-INJECTION LIABILITY SHALL BE TRANSFERRED TO THE STATE OF NEW YORK.

S 4. This act shall take effect immediately.