

## **IC 14-39**

### **ARTICLE 39. CARBON DIOXIDE**

#### **IC 14-39-1**

##### **Chapter 1. Eminent Domain for Transportation of Carbon Dioxide by Pipeline**

#### **IC 14-39-1-1**

##### **"Carbon dioxide"**

Sec. 1. As used in this chapter, "carbon dioxide" means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules compressed to a supercritical state.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-2**

##### **"Carbon dioxide transmission pipeline"**

Sec. 2. As used in this chapter, "carbon dioxide transmission pipeline" means the part of a pipeline in Indiana, including appurtenant facilities, property rights, and easements, that is used exclusively for the purpose of transporting carbon dioxide to a carbon management application, including sequestration, enhanced oil recovery, and deep saline injection, within or outside Indiana.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-3**

##### **Declaration of pipeline to be public use and service**

Sec. 3. Because the movement conducted for:

- (1) a person's own use or account; or
- (2) the use or account of another person or persons;

of carbon dioxide by pipeline in Indiana for carbon management applications can assist efforts to reduce carbon dioxide emissions from the manufacture of gas using coal and the generation of electricity, the use of carbon dioxide transmission pipelines, including their routing, construction, maintenance, and operation, is declared as a matter of legislative determination to be a public use and service, in the public interest, and a benefit to the welfare and people of Indiana.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-4**

##### **Application for certificate of authority; review; public information meeting; approval procedure**

Sec. 4. (a) A carbon dioxide transmission pipeline company may apply to the department for issuance of a carbon dioxide transmission pipeline certificate of authority. The department shall prescribe the form of the application, which must:

- (1) include a filing fee of one thousand dollars (\$1,000);
- (2) be signed by a responsible officer of the company;
- (3) include a statement verifying that the information submitted is true, accurate, and complete to the best of that responsible

officer's knowledge and belief; and

(4) include all information necessary for the department to find the following:

(A) That the applicant has the financial, managerial, and technical ability to construct, operate, and maintain a carbon dioxide transmission pipeline in Indiana.

(B) That the applicant has the requisite experience constructing, operating, and maintaining a carbon dioxide transmission pipeline.

(C) That the applicant has entered into a contract to transport carbon dioxide by pipeline in Indiana with:

(i) at least one (1) producer of carbon dioxide located in Indiana; and

(ii) unless all of the carbon dioxide to be transported in the proposed carbon dioxide transmission pipeline is for the applicant's own use or account, at least one (1) end user of carbon dioxide.

(D) That the applicant has provided documentation to the department showing the proposed length, diameter, and location of the proposed carbon dioxide transmission pipeline in Indiana.

(E) That the applicant will construct, operate, and maintain the proposed carbon dioxide transmission pipeline in accordance with applicable local, state, and federal law, including federal and state safety regulations and rules governing the construction, operation, and maintenance of carbon dioxide transmission pipelines, and related facilities and equipment, to ensure the safety of pipeline employees and the public.

(F) That the applicant has:

(i) entered into an agreement with the Indiana utility regulatory commission concerning the mitigation of agricultural impacts associated with the construction of the proposed carbon dioxide transmission pipeline; or

(ii) signed a statement indicating that the applicant agrees to use, in connection with the construction of the proposed carbon dioxide transmission pipeline, the guidelines adopted under IC 8-1-22.6-8 by the pipeline safety division of the Indiana utility regulatory commission.

(b) The department shall review an application filed under subsection (a). Subject to subsection (f), if the department determines that the application is incomplete or inaccurate, or both, the department shall return the application to the applicant, informing the applicant in writing of the applicant's right to file a corrected application with the department. If the department determines that the application is complete and accurate, the department shall provide notice to the applicant of:

(1) that determination; and

(2) the date, time, and location of the public information meeting to be held under subsection (d).

- (c) The applicant shall:
    - (1) upon receipt of a notice under subsection (b):
      - (A) place for public inspection a copy of the application in a public library located in each county in which the carbon dioxide transmission pipeline is proposed to be located; and
      - (B) publish notice, in the same manner that would be required if the applicant were subject to IC 5-3-1, in each county in which the carbon dioxide transmission pipeline is proposed to be located, of:
        - (i) the name and address of each library in which a copy of the application is placed under clause (A); and
        - (ii) the date, time, and location of the public information meeting to be held under subsection (d);
    - (2) provide to the department proof of publication of notice under subdivision (1)(B); and
    - (3) have a representative present at the public information meeting held under subsection (d).
  - (d) The department shall:
    - (1) conduct a public information meeting in the county seat of one (1) of the counties, as determined by the department, in which the proposed carbon dioxide transmission pipeline will be located; and
    - (2) provide an opportunity at the meeting for members of the public to be briefed and to ask questions about the proposed carbon dioxide transmission pipeline.
  - (e) Not later than ninety (90) days after the public information meeting held under subsection (d), the department shall notify the applicant in writing that:
    - (1) the department:
      - (A) has made the findings described in subsection (a)(4); and
      - (B) has approved the application; or
    - (2) the department:
      - (A) has determined that the department is unable to make the findings described in subsection (a)(4); and
      - (B) has disapproved the application.
  - (f) The department shall process a corrected application that is filed as permitted under subsection (b) in the same manner the department processes an initially filed application under subsection (a).
  - (g) If the department fails to act under subsection (e) not later than ninety (90) days after the public information meeting held under subsection (d), the application is considered to be approved by the department.
  - (h) If:
    - (1) the department approves the application under subsection (e)(1); or
    - (2) the application is considered to be approved as described in subsection (g);
- the department shall issue to the applicant a carbon dioxide transmission pipeline certificate of authority.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-5**

##### **Confidential information**

Sec. 5. (a) Except as provided in subsection (b), if a carbon dioxide transmission pipeline company files with the department a verified certificate stating the reasons that the designation of confidential information is necessary, the carbon dioxide transmission pipeline company may designate information that it submits in an application to the department, or in subsequent reports, as trade secret or confidential and proprietary information.

(b) Subsection (a) does not apply to information referred to in section 4(a)(4)(D) of this chapter.

(c) The department shall exercise all necessary caution to avoid public disclosure of confidential information designated under subsection (a).

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-6**

##### **Issuing a certificate of authority**

Sec. 6. A certificate of authority issued by the department under this chapter must include at least the following:

(1) A grant of authority to construct and operate a carbon dioxide transmission pipeline as requested in the application.

(2) A grant of authority to use, occupy, and construct pipeline facilities in any designated public right-of-way for the construction and operation of the carbon dioxide transmission pipeline.

(3) A grant of authority to take and acquire possession by eminent domain of any property or interest in property for the construction, maintenance, or operation of a carbon dioxide transmission pipeline in the manner provided for the exercise of the power of eminent domain under sections 7, 8, and 9 of this chapter.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-7**

##### **Right of company to condemn property**

Sec. 7. If a carbon dioxide transmission pipeline company has received a carbon dioxide transmission pipeline certificate of authority from the department under this chapter and is not able to reach an agreement with a property owner for the construction, operation, and maintenance of the carbon dioxide transmission pipeline on the owner's property, the company may proceed to condemn a right-of-way or an easement necessary or useful for:

(1) constructing, maintaining, using, operating, and gaining access to a carbon dioxide transmission pipeline and all necessary machinery, equipment, pumping stations, appliances, and fixtures for use in connection with the carbon dioxide transmission pipeline; and

(2) obtaining all necessary rights of ingress and egress to construct, examine, alter, repair, maintain, operate, or remove a carbon dioxide transmission pipeline and all of its component parts.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-8**

##### **Applicability of eminent domain statute**

Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1 applies to the condemnation of property under this chapter by a carbon dioxide transmission pipeline company.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-9**

##### **Compensation attributable to exercise of eminent domain by company**

Sec. 9. A carbon dioxide transmission pipeline company that exercises the authority set forth in section 7 of this chapter shall:

(1) compensate the property owner by making a payment to the owner equal to:

(A) one hundred twenty-five percent (125%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves agricultural land; or

(B) one hundred fifty percent (150%) of the fair market value of the interest in the property acquired, if the right-of-way or easement involves a parcel of property occupied by the owner as a residence; and

(2) pay to the property owner:

(A) any damages determined under IC 32-24-1; and

(B) any loss incurred in a trade or business;

that are attributable to the exercise of eminent domain.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-10**

##### **Disclosure of pipeline's actual route**

Sec. 10. Not later than one hundred eighty (180) days after the completion of a carbon dioxide transmission pipeline for which the department has issued a certificate of authority under this chapter, the carbon dioxide transmission pipeline company shall provide maps and other documentation to the department showing the actual route in Indiana of the carbon dioxide transmission pipeline.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-11**

##### **Administrative review**

Sec. 11. A determination of the department under section 4(e)(2) of this chapter is subject to administrative review under IC 4-21.5.

*As added by P.L.150-2011, SEC.18.*

#### **IC 14-39-1-12**

**Disposition of fee revenue generated**

Sec. 12. The department shall deposit fee revenue received under section 4(a)(1) of this chapter in the oil and gas environmental fund established by IC 14-37-10-2.

*As added by P.L.150-2011, SEC.18.*

**IC 14-39-1-13**

**Expiration date of chapter**

Sec. 13. This chapter expires July 1, 2021.

*As added by P.L.150-2011, SEC.18.*