

Support SB2421/HB3119 Carbon Dioxide Transport and Storage Protections Act

Legislative Action Needed on Carbon Capture, Utilization, and Storage

According to a 2022 Prairie Research Institute report (required by Public Act 102-0341) on Carbon Capture, Utilization and Storage (CCUS), there are significant regulatory gaps at both the Federal and State level concerning CCUS and how this technology would impact property owners, groundwater resources, and climate goals. The report concluded that **Illinois is woefully unprepared for and underprotected from CCUS projects**. Illinois' unique geology is likely to make it a target for carbon storage developers, especially now with Federal incentives from the Inflation Reduction Act. **The Legislature must act now to protect against dangerous practices.**

Among other regulatory gaps, the report found:

- A lack of clarity surrounding pore space ownership and state law on long-term legal and financial responsibility for CO₂ storage.
- An inadequate framework for long-term stewardship and oversight of stored CO₂.
- A need to develop frameworks to regulate CCS in consultation with impacted communities, particularly environmental justice communities.

Support the Carbon Dioxide Transport and Storage Protections Act (HB3119/SB2421)

This bill establishes protections for human health and existing property owners at all key points in the carbon capture process: at the **capture facility**, in the **pipelines**, and at the **sequestration site**. It also shields the public from bearing the financial burden of abandoned projects, includes robust public participation, and bans use of captured carbon for Enhanced Oil Recovery.

Capture Facility Protections

The bill creates a CO₂ capture permit, issued by the IEPA, for any new CO₂ capture projects. That permitting process will require operators to:

- Report how much CO₂ is actually captured and how much is still released.
- Complete an environmental impact analysis and demonstrate that project will not harm local water supplies, increase other harmful emissions, or **generate more carbon** than it will capture
- **Engage in a public process**, including posting key analyses underpinning the permit application before submission to IEPA, accepting public comments, and holding a public meeting. Draft permits will be subject to public comment and hearing.

Pipeline Protections

Under current law, pipeline operators are required to obtain a certificate of authority from the ICC. Additional protections are needed to require those operators to:

- Hold public meetings with county boards in each county the pipeline will pass through.
- Ensure pipelines are not dangerously located closer than 1 mile to residences and businesses and 1.5 miles from high-density housing, schools, daycares, healthcare facilities, and sensitive sites.
- Conduct a geohazard analysis to improve safety measures for these hazardous pipelines.
- Prohibit the use of eminent domain for CO₂ pipeline construction.



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Sequestration Site Protections

- Clarifies that title to pore space belongs to the owner of surface land and expressly prohibits the forced acquisition of pore space (similar to eminent domain).
- Provides that sequestration operators, not landowners, are liable for any releases of stored carbon dioxide and requires operators to set aside funds to plug wells and address emergencies.
- Creates a permitting process for the sequestration site, requiring an operator to demonstrate there will be no likelihood of carbon release, no significant adverse impact on water quality, and no more carbon generated than stored. Operators remain responsible for post-injection care, monitoring, and reporting for at least 100 years.

Other Key Provisions

- **Ban on use of captured CO₂ for enhanced oil recovery.** Captured carbon cannot be used to just create even more carbon emissions.
- Establishes a fund to help communities with **emergency preparedness and emergency response** capabilities in the event of a carbon dioxide release.

Problems with INDUSTRY Carbon Sequestration bills

Enactment of [HB2202/SB2153](#) would be harmful to Illinois landowners and hazardous to residents who live near future pipelines. Industry's bill is designed to minimize the risk to operators, at the expense of Illinois taxpayers. Specifically:

1. Industry has all of the power and none of the risk.
 - **Operators may force landowners to sell subsurface rights to pipelines.** The bill allows industry to pool pore space. Like eminent domain, this would allow a private business to forcibly take landowner rights and leave landowners to live with the risks of sequestration.
 - **Operators may walk away from stored carbon dioxide entirely, leaving the state (and taxpayers) fully responsible.** The bill passes ownership and liability to sequestered carbon to the state upon payment of a nominal fee.
 - Operators are given **increased protection against liability** if carbon is released.
2. Industry's bill:
 - **Offers no environmental protection.** No assessment of environmental risks or impact is required.
 - **Would allow oil and coal mining in close proximity to carbon storage areas,** potentially compromising the integrity of the carbon storage site. If mines or wells occur too close to carbon storage, cracks or wells could allow carbon to escape.
 - **Huge regulatory gaps.** Does not address carbon capture at the facility or transportation of CO₂ via pipeline. No emergency provisions.
3. **No meaningful public participation.**
4. **Miniscule fees.** Proposes just 6 cents per ton (federal incentive is \$85 per ton).

