

353.435 Compilation certificate -- Procedures -- Public notice and hearing -- Defense, indemnification, and hold harmless of pore space or surface owner by Commonwealth -- Release of liability -- Filing of completion certificate and survey with county clerk.

- (1) The cabinet may issue a completion certificate upon application by the sequestration operator demonstrating compliance with KRS 353.411 to 353.459 at one (1) of the following times:
 - (a) Fifty (50) years after carbon dioxide injections into a reservoir end; or
 - (b) At any other time frame established on a site-specific basis by administrative regulations promulgated pursuant to KRS Chapter 13A regarding the time frame for a sequestration operator's post-injection site care and site closure plan.
- (2) The completion certificate shall only be issued:
 - (a) After public notice and hearing; and
 - (b) If the sequestration operator demonstrates that:
 1. The operator is in full compliance with all laws and other requirements governing the sequestration facility, including without limitation, the requirements of any Class VI underground injection control permit associated with the facility and other applicable requirements;
 2. All pending claims regarding the sequestration facility's operation have been addressed and resolved; and
 3. The carbon dioxide injected into the sequestration reservoir has stabilized, and the reservoir is reasonably expected to retain the stored carbon dioxide.
- (3) As of the effective date of a completion certificate:
 - (a) Ownership of the stored carbon dioxide shall transfer by operation of law, without payment of any compensation, to the Commonwealth;
 - (b) If any claim for damages or injury is made against the pore space or surface owner arising from stored carbon dioxide, the Commonwealth shall defend the pore space or surface owner against that claim and indemnify and hold the pore space or surface owner harmless from any damages awarded, except that a pore space owner or surface owner may be liable for causing or contributing to migration or release of stored carbon dioxide from the reservoir. The Commonwealth's liability for such claims and its obligation to indemnify a pore space owner or surface owner for any claim shall not obligate payment of any damages in excess of the balance of the carbon dioxide sequestration facility trust fund established in KRS 353.441;
 - (c) The sequestration operator and all persons who transported or generated any stored carbon dioxide shall be released from all regulatory liability and regulatory requirements associated with the sequestration facility, provided that the sequestration operator shall not be released from regulatory liability for fraud or misrepresentation, nor from any liability existing at common law; and

- (d) The Commonwealth's responsibility for monitoring and managing the sequestration facility following issuance of the completion certificate and assumption of ownership of the sequestered carbon dioxide shall be funded from the carbon dioxide sequestration facility trust fund established in KRS 353.441 until and unless the federal government assumes responsibility for the long-term monitoring and management of sequestration facilities.
- (4) The cabinet shall require that a copy of the completion certificate and a survey of the sequestration field be filed with the county clerk in the county or counties where the carbon dioxide sequestration facility is located.

Effective: July 15, 2026

History: Created 2026 Ky. Acts ch. 152, sec. 13, effective July 15, 2026.