

353.459 Authority of cabinet to seek federal approval of regulatory program and responsibility for underground injection control -- Administrative regulations -- Requirements.

- (1) In addition to the powers conferred upon the cabinet in other provisions of KRS 353.411 to 353.459, the cabinet may develop, promulgate, and submit for approval a regulatory program for the purpose of accepting primary responsibility for the administration of the underground injection control program under 42 U.S.C. sec. 300h et seq. The cabinet shall include in any regulatory program developed in administrative regulations promulgated in accordance with KRS Chapter 13A:
 - (a) Regarding the plugging, conversion, maintenance, monitoring, and abandonment of Class VI wells, measures to protect underground sources of drinking water and to prevent their endangerment;
 - (b) A prohibition of underground injection through Class VI wells, except as authorized by a Class VI permit issued pursuant thereto;
 - (c) The details of the requirements for a permit application, including:
 1. Site characterization;
 2. Operation of injection wells;
 3. A permitting process, including detailed time frames and methods to modify and transfer permits;
 4. Comprehensive monitoring that addresses all aspects of well integrity, carbon dioxide injection and sequestration, and air and groundwater quality during the injection operation and the post-injection site care period;
 5. Financial responsibility ensuring the availability of funds for the life of a carbon dioxide sequestration project, including post-injection site care and emergency response; and
 6. Reporting and recordkeeping that provide project-specific information to evaluate the site operations and ensure environmental protection;
 - (d) The criteria for reviewing compliance with eligibility requirements in KRS 353.417(12) and procedures for restoration of eligibility for a permit;
 - (e) The requisite features of the Class VI underground injection control program, including those for the:
 1. Administration of the carbon dioxide sequestration facility administration fund established in KRS 353.437;
 2. Issuance of determinations that certify the amount of carbon dioxide stored pursuant to individual Class VI underground injection control permits issued for that purpose, based upon requests for sequestration determination;
 3. Issuance of pooling orders as part of the development of a proposed carbon dioxide sequestration project;
 4. Issuance of completion certificates; and
 5. Requirement for owners or operators of Class VI underground injection control wells to demonstrate financial responsibility for the cost of

closing all Class VI underground injection control wells. The demonstration of financial responsibility may include but is not limited to the qualifying instruments required by KRS 353.417;

- (f) The requirements for reasonable public notice and public participation for:
 - 1. Applications for Class VI underground injection control permits;
 - 2. Applications for drilling permits;
 - 3. Issuance of a completion certificate; and
 - 4. Unknown or missing owners; and
 - (g) A schedule of fees to be assessed on applicants and operators. The fees shall cover all costs to the cabinet for administering the underground injection control program. The schedule of fees shall be reviewed and amended as necessary to ensure that the underground injection control program is fully funded at all times. The cabinet may collect application fees for the drilling of wells for use as Class VI wells prior to delegation of authority by the US EPA.
- (2) Administrative regulations promulgated pursuant to this section to allow for assumption of primary responsibility for administration of the underground injection control program under 42 U.S.C. sec. 300h et seq. shall conform to the standards and procedures established by US EPA for Class VI wells.
 - (3) Any administrative regulations promulgated pursuant to KRS 353.411 to 353.459 shall be:
 - (a) Promulgated in accordance with KRS Chapter 13A; and
 - (b) Deemed to be necessary to prevent the loss of federal or state funds for the purposes of KRS 13A.105.
 - (4)
 - (a) Any order or final determination of the cabinet that is issued pursuant to KRS 353.411 to 353.459 shall be subject to review in accordance with KRS 353.700 and any administrative regulation promulgated thereunder.
 - (b) As used in this subsection, "order or final determination" includes but is not limited to the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit or other nonfinal determinations.

Effective: July 15, 2026

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