

AMENDMENT TO THE AMENDMENT IN THE
NATURE OF A SUBSTITUTE
OFFERED BY MR. STEARNS OF FLORIDA

Page 46, strike line 22 and all that follows through
page 49, line 8, and insert the following:

1 "SEC. 813. LEGAL FRAMEWORK FOR GEOLOGICAL SEQUES-
2 TRATION SITES.

3 "(a) DEFINITIONS.—In this section:

4 "(1) ANTHROPOGENIC.—The term 'anthropo-
5 genic' means produced or caused by human activity.

6 "(2) CARBON DIOXIDE.—The term 'carbon di-
7 oxide' means anthropogenically sourced carbon diox-
8 ide that is of sufficient purity and quality as to not
9 compromise the safety and efficiency of any reservoir
10 in which the carbon dioxide is stored.

11 "(3) GEOLOGICAL STORAGE.—The term 'geo-
12 logical storage' means permanent or short-term un-
13 derground storage of carbon dioxide in a reservoir.

14 "(4) RESERVOIR.—

15 "(A) IN GENERAL.—The term 'reservoir'
16 means any subsurface sedimentary stratum,
17 formation, aquifer, or cavity or void (whether
18 natural or artificially created) that is suitable

1 for or capable of being made suitable for the in-
2 jection and storage of carbon dioxide.

3 “(B) INCLUSIONS.—The term ‘reservoir’
4 includes—

5 “(i) an oil and gas reservoir;

6 “(ii) a saline formation or coal seam;

7 and

8 “(iii) the seabed and subsoil of a sub-
9 marine area.

10 “(5) STATE.—

11 “(A) IN GENERAL.—The term ‘State’
12 means—

13 “(i) each of the several States of the
14 United States;

15 “(ii) the District of Columbia;

16 “(iii) the Commonwealth of Puerto
17 Rico;

18 “(iv) Guam;

19 “(v) American Samoa;

20 “(vi) the Commonwealth of the North-
21 ern Mariana Islands;

22 “(vii) the Federated States of Micro-
23 nesia;

24 “(viii) the Republic of the Marshall
25 Islands;

1 “(ix) the Republic of Palau; and

2 “(x) the United States Virgin Islands.

3 “(B) INCLUSIONS.—The term ‘State’ in-
4 cludes all territorial water, seabed, and subsoil
5 of submarine areas of each State.

6 “(6) STATE REGULATORY AGENCY.—The term
7 ‘State regulatory agency’ means the agency des-
8 ignated by the Governor of a State to administer a
9 carbon dioxide storage program of the State.

10 “(7) STORAGE FACILITY.—

11 “(A) IN GENERAL.—The term ‘storage fa-
12 cility’ means an underground reservoir, under-
13 ground equipment, and surface structures and
14 equipment used in an operation to store carbon
15 dioxide in a reservoir, and such other facilities
16 as the Administrator may include pursuant to
17 rule or permit.

18 “(B) EXCLUSIONS.—The term ‘storage fa-
19 cility’ does not include pipelines used to trans-
20 port the carbon dioxide from 1 or more capture
21 facility to the storage and injection site.

22 “(8) STORAGE OPERATOR.—The term ‘storage
23 operator’ means any person or other entity author-
24 ized by the Administrator or State regulatory agency
25 to operate a storage facility.

1 “(9) UNDERGROUND RESERVOIR.—The term
2 ‘underground reservoir’, with respect to a storage fa-
3 cility, includes any necessary and reasonable areal
4 buffer and subsurface monitoring zones that are—

5 “(A) designated by the Administrator or
6 State regulatory agency for the purpose of en-
7 suring the safe and efficient operation of the
8 storage facility for the storage or carbon diox-
9 ide; and

10 “(B) selected to protect against pollution,
11 invasion, and escape or migration of the stored
12 carbon dioxide.

13 “(b) LIABILITY OF STORAGE OPERATORS FOR RE-
14 LEASE OF CARBON DIOXIDE.—

15 “(1) IN GENERAL.—The Administrator shall
16 agree to indemnify and hold harmless a storage op-
17 erator (and the owner of the storage facility if dif-
18 ferent from the storage operator) that has main-
19 tained financial protection as required by section
20 1421(g) of the Safe Drinking Water Act (42 U.S.C.
21 300h(g), as added by this Act) from liability arising
22 from the leakage of carbon dioxide at any storage
23 facility operated by the storage operator, to the ex-
24 tent that the liability is in excess of the level of fi-
25 nancial protection required of the storage operator.

1 ~~“(2) COMPLETION OF OPERATIONS.~~ Upon the
2 issuance of certificate of completion of injection op-
3 erations under section 1421(h) of the Safe Drinking
4 Water Act (42 U.S.C. 300h(h), as added by this
5 Act) by a State regulatory agency (in the case of a
6 State with primary enforcement authority) or the
7 Administrator (in the case of a State that does not
8 have primary enforcement authority)—

9 “(A) the Administrator shall be vested
10 with complete and absolute title and ownership
11 of the storage facility and any stored carbon di-
12 oxide at the facility;

13 “(B) the storage operator and all genera-
14 tors of any injected carbon dioxide shall be re-
15 leased from all further liability associated with
16 the project; and

17 “(C)(i) any performance bonds posted by
18 the storage operator shall be released; and

19 “(ii) continued monitoring of the storage
20 facility, including remediation of any well leak-
21 age, shall become the responsibility of the Ad-
22 ministrator.

23 “(c) FUNDING.—

24 “(1) IN GENERAL.—For each fiscal year, the
25 Administrator shall collect an annual assessment

1 from each storage operator for each storage facility
2 that has not obtained a certificate of completion of
3 injection operations under section 1421(h) of the
4 Safe Drinking Water Act (42 U.S.C. 300h(h), as
5 added by this Act).

6 “(2) ASSESSMENT AMOUNT.—The amount of
7 the assessment for a storage facility for a fiscal year
8 shall be equal to the product obtained by multi-
9 plying—

10 “(A) the per-ton assessment for the fiscal
11 year calculated under paragraph (4); and

12 “(B) the total number of tons of carbon di-
13 oxide injected for storage by the storage oper-
14 ator during the preceding fiscal year at all stor-
15 age facilities operated by the storage operator
16 during the fiscal year.

17 “(3) AGGREGATE AMOUNT.—The aggregate
18 amount of assessments collected from all storage op-
19 erators under paragraph (1) for any fiscal year shall
20 be equal to the sum of, with respect to the fiscal
21 year—

22 “(A) any indemnification payments re-
23 quired to be made pursuant to subsection
24 (b)(1);

1 “(B) any costs associated with storage fa-
2 cilities to which the Administrator has taken
3 title pursuant to subsection (b)(2), including
4 costs associated with any—

5 “(i) inspection, monitoring, record-
6 keeping, and reporting requirements of
7 those facilities;

8 “(ii) remediation of carbon dioxide
9 leakage; or

10 “(iii) plugging and abandoning of re-
11 maining wells; and

12 “(C) any costs associated with public liabil-
13 ity of storage facilities to which the Adminis-
14 trator has taken title pursuant to subsection
15 (b)(2).

16 “(4) CALCULATION OF ASSESSMENT.—The as-
17 sessment under this section per ton of carbon diox-
18 ide for a fiscal year shall be equal to the quotient
19 obtained by dividing—

20 “(A) the aggregate amount of assessments
21 calculated under paragraph (3) for the fiscal
22 year; by

23 “(B) the aggregate number of tons of car-
24 bon dioxide injected for storage during the pre-
25 ceding fiscal year by all storage operators.

1 “(5) INFORMATION.—The Administrator shall
2 require the submission of such information by each
3 storage operator on an annual basis as is necessary
4 to make the calculations required under this sec-
5 tion.”.

 On page 49, lines 22 and 23, strike “evidence of fi-
nancial responsibility,” and insert “evidence of financial
responsibility as required under subsection (g).”.

 On page 50, after line 7, add the following:

6 (f) STATE CARBON DIOXIDE GEOLOGICAL STORAGE
7 PROGRAMS.—

8 (1) STATE REGULATORY AUTHORITY.—

9 (A) IN GENERAL.—The regulations pro-
10 mulgated under subsection (e) shall establish
11 minimum requirements that States shall meet
12 in order to be approved to administer a carbon
13 dioxide storage program, including—

14 (i) a prohibition on carbon dioxide
15 storage in the State that is not authorized
16 by a permit issued by the State;

17 (ii) inspection, monitoring, record-
18 keeping, and reporting requirements; and

19 (iii) authority for the State regulatory
20 agency to issue a permit, after public no-

1 ~~lice and hearing, approving a storage facil-~~
2 ity for the proposed geological storage or
3 carbon dioxide if the State regulatory au-
4 thority determines that—

5 (I) the horizontal and vertical
6 boundaries of the geological storage
7 facility designated by the permit are
8 appropriate for the storage facility;

9 (II) the storage facility and res-
10 ervoir are suitable and feasible for the
11 injection and storage of carbon diox-
12 ide;

13 (III) a good faith effort has been
14 made to obtain the consent of a ma-
15 jority of the owners having property
16 interests affected by the storage facil-
17 ity, and that the storage operator in-
18 tends to acquire any remaining inter-
19 est by eminent domain or by a method
20 otherwise allowed by law;

21 (IV) the use of the storage facil-
22 ity for the geological storage or car-
23 bon dioxide will not result in the
24 unpermitted migration of carbon diox-
25 ide into other formations containing

1 fresh drinking water or oil, gas, coal,
2 or other commercial mineral deposits
3 that are not owned by the storage op-
4 erator; and

5 (V) the proposed storage would
6 not unduly endanger human health or
7 the environment, and would be in the
8 public interest.

9 (B) STATE AUTHORITY.—A State regu-
10 latory agency approved by the Administrator to
11 administer a carbon dioxide storage program
12 shall issue such orders, permits, certificates,
13 rules, and regulations, including establishment
14 of such appropriate and sufficient financial
15 sureties as are necessary, for the purpose of
16 regulating the drilling, operation, and well plug-
17 ging and abandonment and removal of surface
18 buildings and equipment of the storage facility
19 in order to protect the storage facility against
20 pollution, invasion, and the escape or migration
21 of carbon dioxide.

22 (2) EMINENT DOMAIN.—A storage operator
23 may be empowered by a State to exercise the right
24 of eminent domain under State law to acquire all
25 surface and subsurface rights and interests nec-

1 ~~essary or useful for the purpose of operating the~~
2 storage facility, including easements and rights-of-
3 way across land that are necessary to transport car-
4 bon dioxide among components of the storage facil-
5 ity.

6 (3) VARIANCE IN CONDITIONS.—The regula-
7 tions promulgated under subsection (e) shall permit
8 or provide for consideration of varying geological,
9 hydrological, and historical conditions in different
10 States and in different areas within a State.

11 (4) ENHANCED RECOVERY OPERATIONS.—

12 (A) IN GENERAL.—Upon the approval of a
13 State to administer a carbon dioxide storage
14 program, the State regulatory agency des-
15 ignated by the State may develop rules to allow
16 the conversion into a storage facility of an en-
17 hanced recovery operation that is in existence
18 as of the date on which administration of the
19 program by the State is approved.

20 (B) OIL AND GAS RECOVERY.—Nothing in
21 this Act applies to or otherwise affects the use
22 of carbon dioxide as a part of or in conjunction
23 with any enhanced recovery method the sole
24 purpose of which is enhanced oil or gas recov-
25 ery.

1 (g) FINANCIAL ASSURANCE FOR STORAGE OPERA-
2 TORS.—

3 (1) IN GENERAL.—Each storage operator shall
4 be required by the State regulatory agency (in the
5 case of a State with primary enforcement authority)
6 or the Administrator (in the case of a State that
7 does not have primary enforcement authority) to
8 have and maintain financial assurance of such type
9 and in such amounts as are necessary to cover liabil-
10 ity claims relating to the storage facility of the stor-
11 age operator.

12 (2) MAINTENANCE OF FINANCIAL ASSUR-
13 ANCE.—The financial assurance required under
14 paragraph (1) shall be maintained by the storage op-
15 erator until such time as the operator obtains a cer-
16 tificate of completion of injection operations under
17 subsection (h).

18 (3) AMOUNT.—The amount of financial assur-
19 ance required under paragraph (1) shall be the max-
20 imum amount of liability insurance available at a
21 reasonable cost and on reasonable terms from pri-
22 vate sources (including private insurance, private
23 contractual indemnities, self-insurance, or a com-
24 bination of those measures), as determined by the
25 Administrator.

1 (h) ~~CESSATION OF STORAGE OPERATIONS.~~—Upon a
2 showing by a storage operator that a storage facility is
3 reasonably expected to retain mechanical integrity and re-
4 main emplaced, the State regulatory agency (in the case
5 of a State with primary enforcement authority) or the Ad-
6 ministrator (in the case of a State that does not have pri-
7 mary enforcement authority) shall issue a certificate of
8 completion of injection operations to the storage operator.

Strike from page 50, line 9, through page 52, line
16, and insert the following:

9 (a) STUDY OF PIPELINES.—The Secretary of Energy
10 (referred to in this section as the “Secretary”), in coordi-
11 nation with the federal Energy Regulatory Commission,
12 the Administrator of the Environmental Protection Agen-
13 cy, and such other relevant federal agencies as the Presi-
14 dent may designate, shall conduct a study to assess the
15 need for and barriers to the construction and operation
16 of pipelines to be used for the transportation of carbon
17 dioxide for the purpose of sequestration or enhanced hy-
18 drocarbon recovery.

19 (b) REPORT.—Not later than 180 days after the date
20 of enactment of this Act, the Secretary shall submit to
21 the Committee on Energy and Commerce of the House
22 of Representatives and the Committee on Energy and

- 1 Natural Resources of the Senate a report describing the
- 2 results of the study.

