



BLM Issues National Policy on Carbon Sequestration Projects

The Bureau of Land Management (BLM) issued a new national policy providing guidance on authorizations for carbon sequestration projects on federal lands via Instruction Memorandum No. 2022-041 (June 8, 2022). This broad policy and guidance document covers the prerequisites, procedures, and permits needed for these projects, as well as the review process for the key legal issue of pore space ownership. A copy of the policy is available [here](#).

Key components of this new policy:

1. Surface facilities for carbon sequestration projects require a Right-of-Way (ROW) from BLM under Title V of the Federal Land Policy and Management Act.
 - a. BLM will issue ROW grants for a minimum of 30 years for long-term geologic storage of CO₂.
 - b. ROW permit must address the project cradle-to-grave, including construction, maintenance, and termination/decommissioning of surface facilities required to inject CO₂ for permanent geologic storage.
2. Project proponents must submit a Plan of Development application to BLM pursuant to 43 C.F.R. § 2804.25.
3. A separate Title V ROW is also required for the project proponent/operator to utilize federal pore space, during and after injection operations.
4. Regarding the issue of pore space ownership, BLM is required to review title documents to address any potential conflicts, and coordinate with attorneys from the Solicitor's Office. This requirement underscores the need for project proponents to proactively conduct their own due diligence in advance to address and resolve issues.
5. BLM is required to complete mineral potential reports, like the reports BLM prepares for Resource Management Plans, and conduct geologic analyses to ensure that the integrity of nearby reservoirs and other formations are protected. These analyses may include site testing and characterization studies.
6. BLM is required to ensure that the project proponent has a monitoring program in place for the surface and pore space injection areas.

7. The Title V ROW authorizations will require BLM to comply with all applicable statutory requirements including, but not limited to, the Safe Drinking Water Act (underground injection control (UIC) permit), National Environmental Policy Act, Federal Land Policy and Management Act, and the Mineral Leasing Act.

In sum, as with any project undertaking on federal lands, the BLM authorization process is complex and time consuming. To avoid stranded capital and promote efficient agency approvals, project proponents should develop a proactive permitting strategy based upon extensive due diligence to avoid permitting delays and mitigate potential legal risks.

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