

Comparative International Law: the scope and management of public participation rights related to CCS activities

Despite the lack of regulation of CCS activities in Brazil, the use of such techniques for CO₂ emissions mitigation or reduction is aligned with the National Policy for Climate Change objectives. Thus, it is important to understand of whether and how specific jurisdictions deal with particular issues associated with CO₂ storage. The paper proposes the presentation of the item of public participation in the regulatory standards of CCS existing in Australia, Canada, the European Union, the United Kingdom and the United States and their possible relations with the Brazilian configuration. The choice of territories is due to the existence of the item in its legal and/or regulatory rules. Thus, the work intends to expose and compare the treatment given to the item in the different territories, the tools related to it and its modes of execution. It is believed that the results may indicate appropriate ways to address public participation in CCS compatible with the tools of environmental governance in Brazil, or at least, to generate bases for the formulation of new forms of participation in the country. The method will be comparative, based on International Comparative Law. The methodology will consist of a collection of norms, the presentation of the devices and the description of the configuration involved in the respective territories, in order to allow the observation of the treatment given to this important element of the public action that is the public participation. The following standards shall be examined:

Greenhouse Gas Storage Act 2009 (Qld GHG Storage Act), Australia, Australia, Queensland

Petroleum and Geothermal Energy Act 2000 (South Australia P&GE Act), Australia, South Australia, Australia

Greenhouse Gas Geological Sequestration Act 2008 (Victorian Onshore Act), Australia, Australia, Victoria

Offshore Petroleum and Greenhouse Gas Storage Act 2010 (Victorian Offshore Act), Australia, Australia, Victoria

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Canada Mines and Minerals Act, R.S.A. 2000, c. M-17 (Alberta M&M Act),
Canada, Alberta, Canada

Oil and Gas Activities Act [SBC 2008] Chapter 36 (BC Oil and Gas Act),
Canada, Canada, British Columbia

Petroleum and Natural Gas Act [RSBC 1996] Chapter 361 (BC Petroleum and
Gas Act), Canada, British Columbia, Canada

Oil and Gas Conservation Act RSS 1978, c O-2 (Saskatchewan O&G Act),
Canada, Canada, Saskatchewan

Carbon Sequestration Tenure Regulation (Alberta Tenure Regulation),
Canada, Canada, Alberta

European Union Directive 2009/31/EC of the European Parliament and of the
Council of 23 April 2009 on the geological storage of carbon dioxide and
amending Council Directive 85/337/EEC, European Parliament and Council
Directives 2000/60/EC, 2001/80/EC, 2004/35/EC, 2006/12/EC, 2008/1/EC
and Regulation (EC) No 1013/2006 (EU CO₂ Storage Directive), European
Union

United Kingdom Energy Act 2008 (UK Energy Act), European Union, United
Kingdom, European Union, United Kingdom, England, European Union,
United Kingdom, Northern Ireland, European Union, United Kingdom,
Scotland, European Union, United Kingdom, Wales

Environmental Protection: The Storage of Carbon Dioxide (Access to
Infrastructure) Regulations 2011 No. 2305 (UK Infrastructure Access
Regulations), European Union, United Kingdom, European Union, United
Kingdom, England, European Union, United Kingdom, Northern Ireland,
European Union, United Kingdom, Scotland, European Union, United
Kingdom, Wales

Environmental Protection: The Storage of Carbon Dioxide (Termination of
Licenses) Regulations 2011 No. 1483, European Union, United Kingdom,
England, European Union, United Kingdom, Northern Ireland, European
Union, United Kingdom, Scotland, European Union, United Kingdom, Wales,
European Union, United Kingdom

Environmental Protection: Storage of Carbon Dioxide (Licensing etc.)

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Regulations 2010 No. 2221, European Union, United Kingdom, Wales, European Union, United Kingdom, Northern Ireland, European Union, United Kingdom, England

Environmental Protection: Storage of Carbon Dioxide (Licensing etc.) (Scotland) Regulations 2011 No. 24 (Scotland CO2 Storage Licensing Regulations), European Union, United Kingdom, Scotland

United States North Dakota Administrative Code Chapter 43-05 Geologic Storage of Carbon Dioxide (North Dakota Storage Administration Statute), United States, North Dakota

North Dakota Century Code Chapter 38-22 Carbon Dioxide Underground Storage (North Dakota CO2 Storage Statute), United States, North Dakota

North Dakota Century Code Chapter 47-31: Subsurface Pore Space Policy (North Dakota Pore Space Statute), United States, North Dakota

Oklahoma Statutes Title 27A, Chapter 3: Oklahoma Carbon Capture and Geologic Sequestration Act (Oklahoma CCS Act), United States, Oklahoma

Texas Water Code, Title 2: Water Administration, Subtitle D: Water Quality Control, Chapter 27: Injection Wells (Texas Injection Wells Act), United States, Texas

Texas Administrative Code, Title 16: Economic Regulation, Part 1: Texas Railroad Commission, Chapter 5: Carbon Dioxide (Texas CO2 Code), United States, Texas

Texas Health and Safety Code, Title 5: Sanitation And Environmental Quality, Subtitle C: Air Quality, Chapter 382: Clean Air Act, Subchapter K: Offshore Geologic Storage of Carbon Dioxide (Texas Offshore Storage Act), United States, Texas

Utah Code, Title 54: Public Utilities, Chapter 17: Energy Resource Procurement Act, Section 701: Rules for Carbon Capture and Geological Storage (Utah CCS Rules Statute), United States, Utah

Wyoming States, Title 35: Public Health and Safety, Chapter 11: Environmental Quality, Article 3: Water Quality (Wyoming Sequestration Permitting Statute), United States, Wyoming

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Code of Federal Regulations, Title 40: Protection of Environment, Parts 144 (Underground Injection Control Program), 145 (State UIC Program Requirements) and 146 (Underground Injection Control Program: Criteria and Standards) (USA Underground Injection Rules), United States

Code of Federal Regulations, Title 40: Protection of Environment, Parts 78 (Appeal Procedures) and 98 (Mandatory Greenhouse Gas Reporting) (USA CO₂ Storage Reporting Rules), United States

Louisiana Revised Statutes, Title 30: Minerals, Oil, and Gas and Environmental Quality, Chapter 11: Louisiana Geologic Sequestration of Carbon Dioxide Act (Louisiana CO₂ Sequestration Act), United States, Louisiana

Louisiana Revised Statutes, Title 30: Minerals, Oil, and Gas and Environmental Quality, Chapter 3: Exploration and Prospecting (Louisiana MOGEQ Act), United States, Louisiana

Montana Code Annotated 2011, Title 82: Mineral, Oil and Gas, Chapter 11: Oil and Gas Conservation, Part 1: Regulation by Board of Oil and Gas Regulation (Montana Oil and Gas Statute), United States, Montana

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