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SB 95

Brian Schweitzer, Governor

P.O. Box 200901 • Helena, MT 59620-0901 • (406) 444-2544 • www.deq.state.mt.us

SB 95 Informational Testimony
House Natural Resources Committee
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My name is Don Vidrine. I am the Chief of the Air Resources Management Bureau with the Department of Environmental Quality (Department). Senate Bill 95 was introduced at the request of the Department. I am here today to provide informational testimony on the Bill.

Oil and gas wells present a unique challenge in determining whether an air quality permit is required. An owner or operator of a facility must calculate their potential to emit air pollutants, or PTE, to determine if they must submit an application for an air quality permit. Under current requirements, this calculation must be done prior to construction, or drilling in the case of an oil or gas well. In general, if a facility has a PTE greater than 25 tons per year, the Clean Air Act of Montana requires owners or operators to file an application for an air quality permit 180 days prior to construction.

Potential emissions of air pollutants from oil and gas wells are influenced by the pressure, volume, and temperature of the oil or gas reservoir. These conditions cannot be accurately characterized until a well has been drilled. Therefore, it is difficult to accurately estimate a well's PTE and determine if a permit is required prior to well completion. In order to comply with the requirement to file an application 180 days prior to construction, owners or operators of oil and gas wells must apply for air quality permits for all proposed wells. This means that they may be applying for and receiving air quality permits for wells that ultimately will not be required to hold an air quality permit because their air emissions are below permitting thresholds or the wells themselves are non-producing and have no emissions.

Senate Bill 95 amends the air quality permitting provisions of the Clean Air Act of Montana. It describes what equipment may be constructed, what types of wells are covered under the provisions, and when permit applications must be filed. It requires the adoption of air pollution

control rules and spells out enforcement provisions. The specific requirements of that bill are as follows:

Senate Bill 95 allows owners and operators of oil and gas wells to construct and operate equipment necessary for the operation of the well prior to obtaining an air quality permit. Necessary equipment is limited to that equipment used for producing, treating, separating, or storing oil or gas. This Bill would not have applicability to coal bed methane production since the regulated air emissions associated with coal bed methane wells come from transportation facilities such as compressor engines which are specifically excluded from the Bill's provisions. Major wells subject to federal Prevention of Significant Deterioration or New Source Review permitting requirements would still be required to obtain a permit prior to drilling.

This Bill allows an owner or operator to drill, evaluate, and operate oil and gas wells for up to 60 days prior to filing an application for an air quality permit with the Department. If an application has been filed within 60 days after well completion, the well may continue to operate until the Department issues a permit.

Senate Bill 95 also requires the Board of Environmental Review to adopt air pollution control rules to maintain the current level of environmental protection until the Department issues an air quality permit with site-specific conditions. The Department would recommend that the Board of Environmental Review adopt emission control rules that mirror conditions that are currently placed in oil and gas well permits. These rules would govern the operation of the well until the Department issues a permit if an application has been filed within the 60 days after well completion. The Department believes that appropriate air pollution control rules would maintain the current level of environmental protection provided by the permit process.

Senate Bill 95 also contains enforcement provisions. If the owner or operator fails to file an application within the 60 days, they would be subject to enforcement action from the date they commenced drilling of the well.

It is important to note that SB 95 does not expand or restrict the universe of sources that are currently required to obtain an air quality permit. SB 95 does not create a new permitting program for the oil and gas industry. The Department did not request this bill in response to concerns expressed by the EPA. The Bill does not exclude sources from obtaining an air quality permit; it only temporarily delays the time for the filing of a permit application.

In an unrelated action, SB 95 also contains a housekeeping amendment to 75-2-218, MCA, clarifying that the Board of Environmental Review, not the Department of Environmental Quality, has rulemaking authority under the Clean Air Act of Montana.