

SENATE BILL NO. 285

INTRODUCED BY A. OLSON

BY REQUEST OF THE SENATE ENERGY AND TELECOMMUNICATIONS STANDING COMMITTEE

A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE MONITORING OF CARBON DIOXIDE INJECTION WELLS FOR 50 YEARS UNLESS AN ALTERNATIVE TIMEFRAME IS APPROVED BY THE BOARD OF OIL AND GAS CONSERVATION; REQUIRING AN OPERATOR TO CONTINUE TO ACCEPT LIABILITY FOR A CARBON DIOXIDE STORAGE RESERVOIR AND THE STORED CARBON FOR A MINIMUM OF 30 YEARS; AMENDING SECTION 82-11-183, MCA; AND PROVIDING AN EFFECTIVE DATE."

WHEREAS, the federal Environmental Protection Agency has adopted federal requirements under the underground injection control program for carbon dioxide geologic sequestration wells that require minimum monitoring timeframes with an opportunity for alternative timeframes; and

WHEREAS, the Board of Oil and Gas Conservation in consultation with the Department of Environmental Quality and the Department of Natural Resources and Conservation intends to seek primacy from the Environmental Protection Agency to implement the federal requirements for carbon dioxide geologic sequestration wells in Montana.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 82-11-183, MCA, is amended to read:

"82-11-183. (Effective on occurrence of contingency) Certificate of completion -- department of environmental quality participation -- transfer of liability. (1) Pursuant to subsection (3), after carbon dioxide injections into a reservoir end and upon completion of the certification requirements pursuant to subsections (4) and (5), the board shall issue the geologic storage operator a certificate of project completion.

(2) The board:

(a) shall adopt rules pursuant to 82-11-111 necessary for implementing subsection (4) of this section, including rules for public notice and hearing; and

(b) may, pursuant to 82-11-111, adopt any other rules necessary for administration of this section.



1 (3) ~~The~~ Except as provided in subsection (11), the certificate may not be issued until at least ~~45~~ 25 years
2 after carbon dioxide injections end.

3 (4) Subject to subsection (5), the certificate may be issued only if the geologic storage operator:

4 (a) is in full compliance with regulations governing the geologic storage reservoir pursuant to this part;

5 (b) shows that the geologic storage reservoir will retain the carbon dioxide stored in it;

6 (c) shows that all wells, equipment, and facilities to be used in the postclosure period are in good
7 condition and retain mechanical integrity;

8 (d) shows that it has plugged wells, removed equipment and facilities, and completed reclamation work
9 as required by the board;

10 (e) shows that the carbon dioxide in the geologic storage reservoir has become stable, which means that
11 it is essentially stationary or chemically combined or, if it is migrating or may migrate, that any migration will not
12 cross the geologic storage reservoir boundary; and

13 (f) except as provided in subsection (11), shows that the geologic storage operator will continue to
14 provide adequate bond or other surety after receiving the certificate of completion for at least ~~45~~ 25 years
15 following issuance of the certificate of completion and that the operator continues to accept liability for the
16 geologic storage reservoir and the stored carbon dioxide.

17 (5) (a) Prior to issuing a certificate of completion, the board shall solicit, document, consider, and address
18 comments from the department of environmental quality.

19 (b) Notwithstanding subsection (5)(a), the board makes the final decision on issuance of the certificate.

20 (6) ~~After~~ Except as provided in subsection (11), after issuing a certificate of completion, the board shall
21 ensure adequate monitoring by the operator of the wells and reservoir, verifying compliance with subsection (4),
22 for a period of ~~45~~ 25 years.

23 (7) (a) Following the monitoring and verification required in subsection (6) and subject to subsections
24 (7)(b) and (7)(c), if the geologic storage operator has title to the geologic storage reservoir and the stored carbon
25 dioxide, the geologic storage operator may transfer title to the geologic storage reservoir and to the stored carbon
26 dioxide to the state.

27 (b) Prior to a transfer of title, the monitoring pursuant to subsection (6) must show that:

28 (i) the reservoir and wells are in full compliance with regulations pursuant to this part; and

29 (ii) the reservoir will maintain its structural integrity and will not allow carbon dioxide to move out of one
30 stratum into another or pollute drinking water supplies.

1 (c) (i) Prior to a transfer of title, the board shall solicit, document, consider, and address comments from
2 the department of environmental quality.

3 (ii) The board shall make a recommendation to the board of land commissioners as to whether title should
4 transfer to the state.

5 (iii) Notwithstanding subsections (7)(c)(i) and (7)(c)(ii), the board of land commissioners shall make the
6 final decision on the transfer of title.

7 (8) If liability is transferred pursuant to subsection (7):

8 (a) title is transferred, without payment or any compensation, to the state;

9 (b) title acquired by the state includes all rights and interests in and all responsibilities associated with
10 the geologic storage reservoir and the stored carbon dioxide;

11 (c) the geologic storage operator and all persons who generated any injected carbon dioxide are
12 released from all regulatory requirements and liability associated with the geologic storage reservoir and the
13 stored carbon dioxide;

14 (d) any bonds or other surety posted by the geologic storage operator must be released; and

15 (e) monitoring and managing the geologic storage reservoir and the stored carbon dioxide is the state's
16 responsibility to be overseen by the board until the federal government assumes responsibility for the long-term
17 monitoring and management of geologic storage reservoirs and stored carbon dioxide.

18 (9) (a) If the operator does not transfer title to the state pursuant to subsection (7), the operator
19 indefinitely accepts liability, except as provided in subsection (10), for the stored carbon dioxide and the geologic
20 storage reservoir.

21 (b) If the operator is found not to be in compliance with subsection (7)(b), the operator retains liability
22 until the operator is able to meet the requirements.

23 (10) After receiving a certificate of completion, every ~~45~~ 25 years after completing the monitoring and
24 verification required by subsection (6), an operator may petition the board and request to transfer liability to the
25 state and be released from liability pursuant to subsection (8). An operator who petitions the board pursuant to
26 this subsection (10) may not request that the fee required by 82-11-181(1) or 82-11-184(2)(b) be remitted.

27 (11)(a) The board, in consultation with the appropriate federal agencies, the department of environmental
28 quality, and the department of natural resources and conservation, may adopt rules allowing for compliance with
29 the requirements of this part in a period of time of less than 50 years.

30 (b) The rules must:

