

1 SENATE BILL NO. 285

2 INTRODUCED BY A. OLSON

3 BY REQUEST OF THE SENATE ENERGY AND TELECOMMUNICATIONS STANDING COMMITTEE

4
5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING THE MONITORING OF CARBON DIOXIDE INJECTION
6 WELLS FOR 50 YEARS UNLESS AN ALTERNATIVE TIMEFRAME IS APPROVED BY THE BOARD OF OIL
7 AND GAS CONSERVATION; REQUIRING AN OPERATOR TO CONTINUE TO ACCEPT LIABILITY FOR A
8 CARBON DIOXIDE STORAGE RESERVOIR AND THE STORED CARBON FOR A MINIMUM OF 30 YEARS;
9 AMENDING SECTION 82-11-183, MCA; AND PROVIDING AN EFFECTIVE DATE."

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

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

18
19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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

22 **"82-11-183. (Effective on occurrence of contingency) Certificate of completion -- department of**
23 **environmental quality participation -- transfer of liability.** (1) Pursuant to subsection (3), after carbon dioxide
24 injections into a reservoir end and upon completion of the certification requirements pursuant to subsections (4)
25 and (5), the board shall issue the geologic storage operator a certificate of project completion.

26 (2) The board:

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

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

30 (3) ~~The~~ Except as provided in subsection (11), the certificate may not be issued until at least ~~45~~ 25 years

1 after carbon dioxide injections end.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (c) (i) Prior to a transfer of title, the board shall solicit, document, consider, and address comments from

1 the department of environmental quality.

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

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

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

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

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

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

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

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

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

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

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

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

29 (b) The rules must:

30 (i) ensure compliance with monitoring and verification requirements; and

1 (ii) ensure that an operator provides an adequate bond or other surety and accepts liability for the
2 geologic storage reservoir and the stored carbon for a period of at least 30 years before transferring liability to
3 the state pursuant to subsection (7)."

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5 **NEW SECTION. Section 2. Contingent effective date.** [This act] is effective on occurrence of the
6 contingency contained in section 31(1), Chapter 474, Laws of 2009.

7 - END -