



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.

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

after carbon dioxide injections end.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) The rules must:

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

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

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

- END -

I hereby certify that the within bill,
SB 0285, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2011.

Speaker of the House

Signed this _____ day
of _____, 2011.

SENATE BILL NO. 285

INTRODUCED BY A. OLSON

BY REQUEST OF THE SENATE ENERGY AND TELECOMMUNICATIONS STANDING COMMITTEE

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