

BEFORE THE BOARD OF OIL AND GAS CONSERVATION AND  
THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

In the matter of the adoption of New ) NOTICE OF PUBLIC HEARING ON  
Rule I pertaining to certification of ) PROPOSED ADOPTION  
carbon sequestration equipment )

To: All Concerned Persons

1. On October 5, 2015, at 9:00 a.m., the Department of Natural Resources and Conservation and the Board of Oil and Gas Conservation will hold a public hearing at 2535 St. Johns Avenue, Billings, Montana, to consider the proposed adoption of the above-stated rule.

2. The department will make reasonable accommodations for persons with disabilities who wish to participate in this rulemaking process or need an alternative accessible format of this notice. If you require an accommodation, contact the board no later than September 28, 2015, to advise us of the nature of the accommodation that you need. Please contact Jim Halvorson, Board of Oil and Gas Conservation, 2535 St. Johns Avenue, Billings, MT 59102; telephone (406) 656-0040; fax (406) 655-6015; e-mail jhalvorson@mt.gov.

3. The rule as proposed to be adopted provides as follows:

NEW RULE I CERTIFICATION OF CARBON SEQUESTRATION  
EQUIPMENT (1) For the purposes of this rule, "operator" means:

(a) the owner or operator of a carbon sequestration project approved by a state or federal agency; or

(b) the owner or operator of a closed-loop enhanced oil recovery operation located within an enhanced recovery project approved by the board.

(2) An operator who wishes to obtain a certificate of eligibility for classification of carbon sequestration equipment or equipment used in a closed-loop enhanced oil recovery project as class fifteen property under 15-6-158(4)(b), MCA (2015), must simultaneously file with the board a copy of the application for tax abatement under 15-24-3111, MCA, that is filed with the Department of Environmental Quality.

(3) Eligible equipment includes:

(a) equipment used to inject or retain carbon dioxide which is located within a carbon sequestration project authorized by the responsible state or federal agency; and

(b) equipment used to inject or maintain carbon dioxide in a closed-loop enhanced oil recovery operation that is downstream of the pipeline meter used to measure the amount of carbon dioxide delivered to the closed-loop enhanced oil recovery operation. Pipelines eligible for certification under ARM 17.80.204 are not considered enhanced oil recovery operation equipment.

(4) Within 30 days of receipt of an application pursuant to (2), board staff shall determine whether the application is complete and notify the applicant in writing of its determination.

(a) If the application is incomplete, the written notice shall identify deficiencies.

(b) The applicant may supplement the application to address the deficiencies or submit a new application.

(5) If the application is determined to be complete and eligible for certification under 15-6-158(4)(b), MCA (2015), within 60 days of the determination, board staff shall certify in writing to the applicant and the Department of Revenue that the equipment is eligible for certification.

(6) If an application is determined by board staff not to be eligible for certification, the operator may file a petition for hearing of the application, which must be filed in triplicate with the board. Upon receipt of the petition, the board will set a hearing date for the application, and cause notice of the hearing to be published as provided in 82-11-141, MCA.

(7) By January 31 of each subsequent calendar year, the operator of equipment certified under 15-6-158(4)(b), MCA (2015), must file with the board:

(a) a copy of the report submitted to the Department of Environmental Quality as required under ARM 17.80.225. For closed-loop enhanced recovery operations this report must include:

(i) changes in the numbers and locations of wells and equipment; and

(ii) a report disclosing the volume of the carbon dioxide injected and the volume retained during the previous tax year; and

(b) documentation to identify and describe any catastrophic or unforeseen occurrences that contributed to a carbon dioxide retention rate of less than 85 percent.

(8) The operator must remain in substantial compliance with any rules, laws, orders, and permit conditions applicable to the project.

(9) Carbon sequestration equipment as defined in 15-6-158(2)(c), MCA, which was placed in service after January 1, 2014, and certified by the Department of Environmental Quality before October 1, 2015, is exempt from the requirements of this rule and is already certified by the board.

AUTH: 15-6-158, 82-11-111, MCA

IMP: 15-6-158, 82-11-141, MCA

REASONABLE NECESSITY: HB 156 (Session Laws of Montana 2015, Chapter No. 407, Section 2, to be codified at 15-6-158(5)(b), MCA [2015]) requires the board to: "...promulgate rules specifying procedures, including timeframes for certification application, and definitions necessary to identify carbon sequestration equipment for certification and compliance." In addition to certification, it also requires the board to: "...identify and track compliance in the use of carbon sequestration equipment...." This rule is reasonably necessary for the board to comply with the requirements of HB 156.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearing. Written data, views, or arguments may also be submitted in writing to Jim Halvorson, Board of Oil and Gas Conservation, 2535 St. Johns Avenue, Billings, MT 59102; telephone (406) 656-0040; fax (406) 655-6015; or e-mail [jhalvorson@mt.gov](mailto:jhalvorson@mt.gov), and must be received no later than 5:00 p.m. on October 8, 2015.

5. Jim Halvorson, Board of Oil and Gas Conservation, has been designated to preside over and conduct the public hearing.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination thereof. Notices will be sent by e-mail unless a mailing preference is noted in the request. Such written request may be mailed or delivered to Lucy Richards, P.O. Box 201601, 1625 Eleventh Avenue, Helena, MT 59620; fax (406) 444-2684; e-mail [lrichards@mt.gov](mailto:lrichards@mt.gov); or may be made by completing a request form at any rules hearing held by the department.

7. An electronic copy of this proposal notice is available through the department's web site at <http://www.dnrc.mt.gov>. The department strives to make the electronic copy of the notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted by e-mail on August 20, 2015.

9. With regard to the requirements of 2-4-111, MCA, the department has determined that the adoption of the above-referenced rule will not significantly and directly impact small businesses.

/s/ John E. Tubbs  
JOHN E. TUBBS  
Director  
Natural Resources and Conservation

/s/ Tommy Butler  
TOMMY BUTLER  
Rule Reviewer

/s/ Linda Nelson  
LINDA NELSON  
Board Chair, Board of Oil and Gas Conservation

Certified to the Secretary of State August 31, 2015.