

Interstate Oil and Gas Compact Commission Storage of Carbon Dioxide in Geological Formations

**Analysis of Legal and Regulatory
Guide for States and Provinces**

January 24, 2008

Discussion

- Overview
- Points to consider
- Montana Board of Oil and Gas Comments
- Department of Environmental Quality Comments
- Committee Discussion/Recommendations
- Public Comment

Overview

- Analysis prepared for 10 Sections of proposed Regulation
- EPA developing guidelines under UIC program by 2011?
- Federal legislation pending
 - Economic incentives unknown

Key Components

- IOGCC model statute views CO₂ as a commodity, not as a hazardous substance.
- Jurisdiction over regulation remains unclear
- Air quality issues, BER hearing

ETIC points to consider

- Take no action on any or all areas of sequestration
- Issue findings or opinions on any or all sections of analysis
- Decide which sections members would like to see further researched or discussed
- Decide, which, if any, portions of the IOGCC model statutes members would like to examine in the form of draft legislation
- Other options?

Section 1: Jurisdiction

- IOGCC recommends Board of Oil and Gas as regulatory agency
- EPA Underground Injection Control (UIC) program
- History of Class II, state primacy
- Water Quality laws require DEQ to play a role
- Montana Climate Change Advisory Committee recommendations

Section 2: Definitions

- Storage facility: Underground reservoir.
- Storage operator: Any person, corporation, partnership, limited liability company or other entity authorized to operate storage facility.
- Geologic Storage: Permanent or short-term underground storage.

Section 3: Approval, record or order, certificate -- General requirements

- Uncertainty of federal guidelines
 - Regulatory scheme unknown
- Montana Oil and Gas law as comparison

Section 4: Storage project permitting -- protections

- Montana Oil and Gas law as comparison
- Hazardous waste vs. commodity
- Water Quality standards

Section 5: Eminent domain or other authority

- Underground gas storage reservoirs in Montana
- Pipelines
- Ties into liability

Section 6: Carbon dioxide storage facility trust fund

- Oil and gas production damage mitigation account
- Fee capable of meeting long-term needs
- Timelines

Section 7: Administrative expenses

- Oil and gas privilege and license tax
- Oil and gas fees
- Permitting fees for other activities in Montana
- Water discharge fees

Section 8: Liability release

- Precedent setting
- Wyoming, New Mexico, Texas
- Long-term oil and gas, state responsibility

Section 9: Cooperative agreements

- Standard with oil and gas

Section 10: Enhanced hydrocarbon recovery

- Allowing for EOR
- Timelines
- Contribution to reducing emissions

Additional Analysis

- How extensive of a regulatory scheme?
- Public interest
- Costs
 - Resources and authority
- Benefits to society

ETIC points to consider

- Take no action on any or all areas of sequestration as set out by IOGCC or otherwise
 - If yes, are there alternatives?
 - Research
 - Financial
 - Further study
 - If no, options include . . .

More Questions

- Issue findings or opinions on any or all sections of IOGCC analysis or sequestration in general
 - If yes, what aspects?
 - Jurisdiction and oversight
 - Regulatory and permitting (federal considerations)
 - Ownership
 - Liability (federal considerations)
 - Eminent Domain
 - If no, options include . . .

More Questions

- Decide which sections members would like to see further researched or discussed
 - If yes, which sections?
 - Jurisdiction and oversight
 - Regulatory and permitting
 - Ownership
 - Liability
 - Eminent Domain

Or, options include . . .

More Questions

- Decide, which, if any, portions of IOGCC model statutes members would like to examine in the form of draft legislation
 - Jurisdiction and oversight
 - Regulatory and permitting
 - Ownership
 - Liability
 - Eminent Domain

Other options?

- How does the ETIC wish to proceed on the subject of carbon sequestration?

Public Comments

