

CCS Legislation -- Section By Section

Section 1. This section provides a Short Title for the bill.

Section 2. This section amends the Energy Policy Act of 2005 by inserting a new section, section 963A, providing for financial and technical assistance for up to 10 commercial (deployment) scale carbon dioxide storage projects. This may include the formation of a government backed liability program for long-term stewardship of the projects selected under this bill. Here is a detailed look at the new section:

Section 963A(a) establishes some key definitions for the new section.

Section 963A(b) provides the Department of Energy's core authority for the program.

Section 963A(c) provides that the Department conduct only up to 10 projects, and those through the mechanism of cooperative agreements, a procurement authority that enables the Department to be involved in the conduct of the project (which is appropriate in this case, given the ultimate responsibility the Department will have for the geological formation containing the carbon dioxide).

Sections 963A(d) and (e) provide general and then more detailed requirements for the projects to be funded under this section, to ensure that they are appropriately scoped at the outset, that relevant and necessary legal and regulatory requirements have been met, that the project will be conducted and insured in a manner that will minimize the potential liability exposure of the Federal government under the indemnification that is made available under section 963A(g).

Section 963A(f) lays out the requirement for closure of sites under this program. Only after these requirements are met can title for the site, and responsibility for its long-term stewardship, transfer to the Federal government. The criteria are science based, and must be demonstrated for a period of 10 years that begins only after the carbon dioxide plume has come into equilibrium with the geological formation (which would be measured by pressure changes within the formation, for example). So, instead of picking an arbitrary number of years on which to base closure decisions, the situation of each different geological formation can be taken into account making this a science-based closure metric. For example, if it takes 25 years for such equilibration to take place, then the earliest the land could move into post-closure would be 35 years after injection activities cease.

Section 963A(g) authorizes the Secretary of Energy to indemnify large-scale demonstration projects from liability for personal, property, and environmental damages in excess of their insurance coverage or other financial protection that they may be required to maintain. Liability resulting from the project operator's intentional misconduct or gross negligence is expressly excluded. The Secretary is required to charge a fee for providing indemnification, in an amount that reflects the net present value of the payments that the Government may have to make, taking into account the likelihood of an incident requiring the Government to make indemnification payments. (This calculation is modeled after the one required by the Federal Credit Reform Act and DOE's loan guarantee program for calculating the subsidy cost of federal loan guarantees.) In addition, subsection (g) permits the Secretary enter into indemnification

agreements in advance of appropriations and it authorizes the Attorney General to defend or settle claims against project operators if it looks like the Government may have to make payments under the indemnity agreement. These provisions are modeled on similar ones in the Price-Anderson Act.

Section 963A(h) allows projects under this section to be sited on Federal public land, subject to relevant conditions by the Secretary of Agriculture (in the case of the National Forests) or the Secretary of the Interior (in the case of lands under his jurisdiction).

Section 963A(i) allows the Secretary of Energy to take title (or administrative transfer) of lands containing closed geological storage sites from the projects under this section, for long-term stewardship. It also provides the Secretary with access to financial resources to maintain these sites for purposes of public health and safety protection, in perpetuity.

Section 2 of the bill also makes technical changes to the existing section 963 of the Energy Policy Act of 2005 to clarify its definitions and to bring them into conformance with the program DOE is currently carrying out.

Section 3. This section authorizes a grant program to provide State agencies involved in carbon storage projects to help train personnel in the regulatory and site managerial aspects of carbon storage.