

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

624Q0539

HOUSE AGRICULTURE AND NATURAL RESOURCES

ENGROSSED NO. **HB 1129** - 2/20/2009

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Nygaard, Blake, Dennert, Feickert, Gibson, Juhnke, and Turbiville and Senators Nesselhuf and Bradford

1 FOR AN ACT ENTITLED, An Act to ensure the integrity of pipelines to be used for the
2 transportation of carbon dioxide for the purpose of enhanced oil recovery or geologic carbon
3 sequestration.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 49-41B-2 be amended to read as follows:

6 49-41B-2. Terms as used in this chapter mean:

- 7 (1) "AC/DC conversion facility," an asynchronous AC to DC to AC tie that is directly
8 connected to a transmission facility or a facility that connects an AC transmission
9 facility with a DC transmission facility or vice versa;
- 10 (2) "Associated facilities," facilities which include, aqueducts, diversion dams,
11 transmission substations of two hundred fifty kilovolts or more, storage ponds,
12 reservoirs, or cooling ponds;
- 13 (3) "Carbon dioxide," a fluid that consists of more than ninety percent carbon dioxide
14 molecules compressed in a supercritical state;



1 (4) "Commission," the Public Utilities Commission;

2 ~~(4)~~(5) "Construction," any clearing of land, excavation, or other action that would affect the
3 environment of the site for each land or rights of way upon or over which a facility
4 may be constructed, but not including activities incident to preliminary engineering
5 or environmental studies;

6 ~~(5)~~(6) "Energy conversion facility," any new facility, or facility expansion, designed for or
7 capable of generation of one hundred megawatts or more of electricity, but does not
8 include any wind energy facilities;

9 ~~(6)~~(7) "Facility," any energy conversion facility, AC/DC conversion facility, transmission
10 facility, or wind energy facility, and associated facilities;

11 ~~(7)~~(8) "Permit," the permit issued by the commission under this chapter required for the
12 construction and operation of a facility;

13 ~~(8)~~(9) "Person," an individual, partnership, limited liability company, joint venture, private
14 or public corporation, association, firm, public service company, cooperative,
15 political subdivision, municipal corporation, government agency, public utility
16 district, or any other public or private entity, however organized;

17 ~~(9)~~(10) "Siting area," that area within ten miles in any direction of a proposed energy
18 conversion facility, AC/DC conversion facility, or which is determined by the
19 commission to be affected by a proposed energy conversion facility;

20 ~~(10)~~(11) "Trans-state transmission facility," an electric transmission line and its
21 associated facilities which originates outside the State of South Dakota,
22 crosses this state and terminates outside the State of South Dakota; and which
23 transmission line and associated facilities delivers electric power and energy
24 of twenty-five percent or less of the design capacity of such line and facilities

for use in the State of South Dakota;

~~(11)~~(12) "Utility," any person engaged in and controlling the generation or transmission of electric energy and gas or liquid transmission facilities as defined by § 49-41B-2.1;

~~(12)~~(13) "Wind energy facility," a new facility, or facility expansion, consisting of a commonly managed integrated system of towers, wind turbine generators with blades, power collection systems, and electric interconnection systems, that converts wind movement into electricity and that is designed for or capable of generation of one hundred megawatts or more of electricity. A wind energy facility expansion includes the addition of new wind turbines, designed for or capable of generating twenty-five megawatts or more of electricity, which are to be managed in common and integrated with existing turbines and the combined megawatt capability of the existing and new turbines is one hundred megawatts or more of electricity. The number of megawatts generated by a wind energy facility is determined by adding the nameplate power generation capability of each wind turbine.

Section 2. That § 49-41B-2.1 be amended to read as follows:

49-41B-2.1. For the purposes of this chapter, a transmission facility is:

- (1) An electric transmission line and associated facilities with a design of two hundred fifty kilovolts or more;
- (2) An electric transmission line and associated facilities with a design of one hundred fifteen to two hundred fifty kilovolts, if more than one mile in length of the transmission line does not follow section lines, property lines, roads, highways or railroads, or is not reconstruction or modification of existing transmission lines and

existing associated facilities located on abandoned railroad rights-of-way; or

- (3) A gas or liquid transmission line and associated facilities designed for or capable of transporting coal, gas, liquid hydrocarbons, ~~or~~ liquid hydrocarbon products, or carbon dioxide, excluding any gas or liquid transmission lines or associated facilities which meet any of the following criteria:

(a) Lines or facilities that are used exclusively for distribution or gathering;

(b) Steel pipe and associated facilities operated at a hoop stress of less than twenty percent of specified minimum yield strength as defined by 49 CFR 192.3 as of January 1, 2007, or plastic pipe and associated facilities which operate at less than fifty percent of the design pressure as determined by the formula specified in 49 CFR 192.121 as of January 1, 2007; or

(c) Pipe which has nominal diameter ~~under~~ of less than four inches and not more than one mile of the entire line is constructed outside of public right-of-way.

Section 3. That § 49-41B-24 be amended to read as follows:

49-41B-24. Within twelve months of receipt of the initial application for a permit for the construction of energy conversion facilities, AC/DC conversion facilities, substations of two hundred fifty kilovolts or more, ~~or~~ transmission lines of two hundred fifty kilovolts or more, ~~or~~ of transmission lines for coal, gas, liquid hydrocarbons, ~~or~~ liquid hydrocarbon products, or carbon dioxide, the ~~Public Utilities Commission~~ commission shall make complete findings in rendering a decision regarding whether a permit should be granted, denied, or granted upon such terms, conditions or modifications of the construction, operation, or maintenance as the commission ~~may deem~~ deems appropriate."