

**HOUSE BILL NO. 50**

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/27/23

Referred: Resources, Finance

**A BILL****FOR AN ACT ENTITLED**

1 "An Act relating to the geologic storage of carbon dioxide; and providing for an  
2 effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** SHORT TITLE. This Act may be known as the Carbon Capture, Utilization,  
5 and Storage Act.

6 \* **Sec. 2.** AS 31.05.027 is amended to read:

7 **Sec. 31.05.027. Land subject to commission's authority.** The authority of the  
8 commission applies to all land in the state lawfully subject to its police powers,  
9 including land of the United States and land subject to the jurisdiction of the United  
10 States. The authority of the commission further applies to all land included in a  
11 voluntary cooperative or unit plan of development or operation entered into in  
12 accordance with AS 38.05.180(p) **or 38.05.730.**

13 \* **Sec. 3.** AS 31.05.030(h) is amended to read:

14 (h) The commission may take all actions necessary to allow the state to

1 acquire primary enforcement responsibility under 42 U.S.C. 300h-1 and 42 U.S.C.  
 2 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300j-26), for  
 3 the control of underground injection related to the recovery and production of oil and  
 4 natural gas and the control of underground injection in Class I wells, as defined in 40  
 5 C.F.R. 144.6, as amended, **and the control of underground injection in Class VI**  
 6 **wells, as defined in 40 C.F.R. 144.6, as amended.**

7 \* **Sec. 4.** AS 37.14 is amended by adding a new section to read:

8 **Article 11. Carbon Storage Closure Trust Fund.**

9 **Sec. 37.14.850. Carbon storage closure trust fund.** (a) The carbon storage  
 10 closure trust fund is established as a separate trust fund of the state. The principal and  
 11 earnings of the fund shall be held by the state for the purpose of protecting the public  
 12 interest in maintenance and closure of carbon storage facilities in the state. The fund is  
 13 composed of the carbon storage closure trust fund income account and the carbon  
 14 storage closure trust fund operating account.

15 (b) The carbon storage closure trust fund income account consists of payments  
 16 received under (c) of this section, AS 41.06.180, and earnings on the income account.  
 17 The carbon storage closure trust fund operating account consists of appropriations by  
 18 the legislature of the annual balance of the carbon storage closure trust fund income  
 19 account and any earnings on those appropriations while in the operating account.

20 (c) Before payments are accepted into the carbon storage closure trust fund  
 21 income account for a particular carbon storage facility, the Alaska Oil and Gas  
 22 Conservation Commission and the operator may execute a memorandum of  
 23 understanding that outlines a schedule of expected payments into the fund and the  
 24 relationship of the payments and accumulated earnings in the fund to the operator's  
 25 obligations under AS 41.06.155 or 41.06.175. If the memorandum of understanding  
 26 addresses investment of the fund with respect to payments made by the operator, the  
 27 commissioner of revenue must also sign the memorandum.

28 (d) Nothing in this section creates a dedicated fund.

29 (e) In this section, unless the context requires otherwise,

30 (1) "fund" means the carbon storage closure trust fund;

31 (2) "storage facility" has the meaning given in AS 41.06.210.

1 \* **Sec. 5.** AS 38.05.069(e) is amended to read:

2 (e) Nothing in (c) of this section affects the disposal of minerals under  
3 AS 38.05.135 - 38.05.183 **or carbon storage under AS 38.05.700 - 38.05.795.**

4 \* **Sec. 6.** AS 38.05.070(a) is amended to read:

5 (a) Land, including tide, submerged, or shoreland, to which the state holds title  
6 or to which it may become entitled, may be leased, except for the extraction of natural  
7 resources **and carbon storage under AS 38.05.700 - 38.05.795,** in the manner  
8 provided in AS 38.05.070 - 38.05.105.

9 \* **Sec. 7.** AS 38.05.130 is amended to read:

10 **Sec. 38.05.130. Damages and posting of bond.** Rights may not be exercised  
11 by the state, its lessees, successors, or assigns under the reservation as set out in  
12 AS 38.05.125 until the state, its lessees, successors, or assigns make provision to pay  
13 the owner of the land full payment for all damages sustained by the owner, by reason  
14 of entering upon the land. If the owner for any cause refuses or neglects to settle the  
15 damages, the state, its lessees, successors, assigns, or an applicant for a lease or  
16 contract from the state for the purpose of prospecting for valuable minerals, or option,  
17 contract, or lease for **carbon storage or** mining coal, or lease for extracting  
18 geothermal resources, petroleum, or natural gas, may enter upon the land in the  
19 exercise of the reserved rights after posting a surety bond determined by the director,  
20 after notice and an opportunity to be heard, to be sufficient as to form, amount, and  
21 security to secure to the owner payment for damages, and may institute legal  
22 proceedings in a court where the land is located, as may be necessary to determine the  
23 damages which the owner may suffer.

24 \* **Sec. 8.** AS 38.05.135(a) is amended to read:

25 (a) Except as otherwise provided, valuable mineral deposits in land belonging  
26 to the state shall be open to exploration, development, and the extraction of minerals.  
27 All land, together with tide, submerged, or shoreland, to which the state holds title to  
28 or to which the state may become entitled, may be obtained by permit or lease for the  
29 purpose of exploration, development, and the extraction of minerals. Except as  
30 specifically limited by AS 38.05.131 - 38.05.181 **and 38.05.700 - 38.05.795,** land may  
31 be withheld from lease application on a first-come, first-served basis, and offered only

1 on a competitive bid basis when determined by the commissioner to be in the best  
2 interests of the state.

3 \* **Sec. 9.** AS 38.05.135(c) is amended to read:

4 (c) Payment of a royalty or a net profit share payment to the state under a lease  
5 issued under AS 38.05.135 - 38.05.181 **or a payment of a rent or charge under**  
6 **AS 38.05.700 - 38.05.795** becomes due on the date and in the manner specified in the  
7 lease or in a regulation adopted by the commissioner.

8 \* **Sec. 10.** AS 38.05.135(d) is amended to read:

9 (d) If a royalty or net profit share payment to which the state is entitled under  
10 AS 38.05.135 - 38.05.181 **or a payment of a rent or charge under AS 38.05.700 -**  
11 **38.05.795** is not paid or is underpaid when it becomes due under (c) of this section, the  
12 unpaid amount of the **rent, charge,** royalty, or net profit share payment bears interest  
13 in a calendar quarter at the rate of five percentage points above the annual rate charged  
14 member banks for advances by the 12th Federal Reserve District as of the first day of  
15 that calendar quarter, or at the annual rate of 11 percent, whichever is greater,  
16 compounded quarterly as of the last day of that quarter.

17 \* **Sec. 11.** AS 38.05.135(e) is amended to read:

18 (e) If a royalty or net profit share payment to which the state is entitled under  
19 AS 38.05.135 - 38.05.181 **or a payment of a rent or charge under AS 38.05.700 -**  
20 **38.05.795** is overpaid, interest at the rate and compounded in the manner provided in  
21 (d) of this section shall be allowed and paid on the overpayment. The interest  
22 allowance is subject to the following:

23 (1) if the state grants a credit against future payments for the  
24 overpayment, the state shall pay interest on the overpayment

25 (A) from the date that is the later of the date the overpayment

26 was

27 (i) due; or

28 (ii) received;

29 (B) to the date that is the earlier of the date

30 (i) of notice to the lessee of the credit; or

31 (ii) on which the lessee actually takes the credit;

1 (2) if the state refunds the overpayment, the state shall pay interest on  
2 the overpayment

3 (A) from the date that is the later of the date the overpayment  
4 was

5 (i) due; or

6 (ii) received;

7 (B) to the date the state issues the refund.

8 \* **Sec. 12.** AS 38.05.140(a) is amended to read:

9 (a) A person may not take or hold coal leases or permits during the life of coal  
10 leases on state land exceeding an aggregate of 92,160 acres, except that a person may  
11 apply for coal leases or permits for acreage in addition to 92,160 acres, not exceeding  
12 a total of 5,120 additional acres of state land. The additional area applied for shall be  
13 in multiples of 40 acres, and the application shall contain a statement that the granting  
14 of a lease for additional land is necessary for the person to carry on business  
15 economically and is in the public interest. On the filing of the application, except as  
16 provided by AS 38.05.180(ff)(3) or 38.05.180(gg) and 38.05.700 - 38.05.795, the coal  
17 deposits in the land covered by the application shall be temporarily set aside and  
18 withdrawn from all other forms of disposal provided under AS 38.05.135 - 38.05.181.

19 \* **Sec. 13.** AS 38.05.184(b) is amended to read:

20 (b) No carbon storage licenses or leases or additional oil or gas leases may  
21 be issued by the department or any other state agency for the exploration for or the  
22 development or production of oil and gas on state-owned land and waters seaward of  
23 the mean higher high water line, beginning at Anchor Point; then around the perimeter  
24 of Kachemak Bay, to Point Pogibshi; then west to the three mile limit of state land and  
25 waters; then north to a point three miles west of Anchor Point; then east to the mean  
26 higher high water line of Anchor Point, the point of beginning.

27 \* **Sec. 14.** AS 38.05 is amended by adding new sections to read:

28 **Article 15A. Carbon Storage Exploration Licenses; Leases.**

29 **Sec. 38.05.700. Policy on carbon dioxide storage.** It is in the public interest  
30 to promote the geologic storage of carbon dioxide. The geologic storage of carbon  
31 dioxide benefits the citizens of the state and the environment by reducing greenhouse

1 gas emissions.

2 **Sec. 38.05.705. Applicability; regulations.** (a) The provisions of  
3 AS 38.05.700 - 38.05.795 apply to exploration licensing and the leasing of state land  
4 for carbon storage.

5 (b) The commissioner may adopt regulations necessary to implement  
6 AS 38.05.700 - 38.05.795.

7 **Sec. 38.05.710. Carbon storage exploration licensing.** (a) The commissioner  
8 may issue carbon storage exploration licenses on state land.

9 (b) A carbon storage exploration license gives the licensee

10 (1) the exclusive right to explore, for carbon storage purposes, the state  
11 land described in the license for a five-year term;

12 (2) the option to convert the license for all or part of the state land  
13 described in the license into a carbon storage lease after the licensee

14 (A) fulfills the work commitments set out in the license;

15 (B) demonstrates the ability to meet the commercial terms for  
16 the lease as set out in the license or in regulation;

17 (C) obtains a permit under AS 41.06.125; and

18 (D) complies with the lease conversion process of  
19 AS 38.05.720(b).

20 (c) A carbon storage exploration license must

21 (1) be conditioned on an obligation by the licensee to fulfill a specified  
22 work commitment as set out in the license; the work commitment must include  
23 mandatory provisions for

24 (A) an annual fee paid by the licensee to the department in an  
25 amount of at least \$20 per acre subject to the license; and

26 (B) an annual report describing the licensee's exploration  
27 activities in the previous calendar year, which must be provided by the licensee  
28 to the department;

29 (2) include proposed commercial terms if the license is converted into  
30 a carbon storage lease, which must at a minimum provide for

31 (A) an annual rent of at least \$20 per acre; and

1 (B) a per-ton injection charge on all injected volumes of carbon  
2 dioxide of at least \$2.50;

3 (C) the posting of a bond or other security acceptable to the  
4 department and in favor of the state;

5 (3) be conditioned on the posting of a bond or other security acceptable  
6 to the department and in favor of the state; and

7 (4) be subject to revocation at the commissioner's discretion under (d)  
8 of this section.

9 (d) The commissioner may revoke a carbon storage exploration license before  
10 the termination of the license's five-year term if the licensee fails to comply with the  
11 requirements of (c) of this section or applicable regulations.

12 (e) The department shall renew a carbon storage exploration license if the  
13 licensee

14 (1) before the expiration of the license term, applies for a permit under  
15 AS 41.06.125;

16 (2) is in compliance with the conditions of the license;

17 (3) provides documentation acceptable to the department of the  
18 pending permit application; and

19 (4) submits an executed renewal form to the department affirming the  
20 original terms of the license for the renewed license term.

21 (f) In the commissioner's discretion, a carbon storage exploration license may  
22 be renewed for a term sufficient to determine whether the licensee's permit application  
23 will be accepted under AS 41.06.105 - 41.06.210.

24 (g) A carbon storage exploration license that has been renewed under (e) of  
25 this section terminates upon denial of the licensee's permit application by the Alaska  
26 Oil and Gas Conservation Commission under AS 41.06.105 - 41.06.210.

27 (h) The dollar amounts in (c) of this section shall change every five years  
28 according to changes in the Consumer Price Index for all urban consumers for the  
29 Anchorage Metropolitan Area compiled by the Bureau of Labor Statistics, United  
30 States Department of Labor. The index for January 2023 is the reference base index.

31 **Sec. 38.05.715. License procedures.** (a) The procedures in this section apply

1 to the issuance of a carbon storage exploration license under AS 38.05.710.

2 (b) To initiate the licensing procedure, an applicant shall submit to the  
3 commissioner a proposal that

4 (1) identifies a specific area to be subject to the license;

5 (2) proposes minimum work commitments;

6 (3) proposes commercial terms applicable to a carbon storage lease  
7 under AS 38.05.710(c)(2);

8 (4) demonstrates the applicant's ability to assume responsibility of a  
9 carbon storage lease;

10 (5) describes how the applicant meets the minimum qualifications for a  
11 licensee under applicable regulations; and

12 (6) includes an attestation of the applicant's ability to perform the  
13 requirements of (2) - (4) of this subsection.

14 (c) The commissioner shall publish notice of a proposal received under (b) of  
15 this section. The notice shall include a solicitation for competing proposals. A copy of  
16 the published notice shall be sent to any lessee under AS 38.05.135 - 38.05.181 in one-  
17 half mile of the area proposed for an exploration license. Any person in the area may  
18 submit a competing proposal under the process established by the commissioner in  
19 regulation. The regulations must require that a competing proposal be submitted not  
20 later than 90 days after the commissioner's written notice is published.

21 (d) After the deadline for submission of a competing proposal has passed, the  
22 commissioner shall issue a written finding determining whether the state's best  
23 interests are served through issuing a carbon storage exploration license. If the  
24 commissioner determines that issuance of a carbon storage exploration license is in the  
25 best interests of the state, the finding must

26 (1) describe the limitations, stipulations, conditions, or changes from  
27 the initiating proposal or competing proposals that are required to make the issuance  
28 of the exploration license conform to the best interests of the state;

29 (2) set out the commercial terms required for the eventual conversion  
30 of the exploration license into a carbon storage lease;

31 (3) if there are competing proposals from multiple applicants, identify



1 which applicants are qualified for the issuance of the exploration license and include  
2 information for the competitive bid process as set out in (f) of this section; and

3 (4) include a copy of the exploration license to be issued and the form  
4 of lease that will be used for any portion of the exploration license area subsequently  
5 converted to a lease under AS 38.05.720.

6 (e) If the commissioner concludes that issuance of a carbon storage  
7 exploration license is in the best interests of the state, and that only one applicant is  
8 qualified to be issued the license, the applicant may accept or reject the exploration  
9 license, as limited or conditioned by the terms of the finding and in the form attached  
10 to the finding, not later than 30 days after the finding's date of publication. The  
11 applicant shall accept or reject the issuance of the carbon storage exploration license in  
12 writing. The commissioner shall consider an applicant's failure to respond in the 30-  
13 day period as a rejection of the license.

14 (f) If the commissioner concludes that issuance of the carbon storage  
15 exploration license is in the best interests of the state, and that more than one applicant  
16 is qualified to be issued the license, the commissioner shall issue a request for  
17 competitive sealed bids, under procedures adopted by regulation, to determine which  
18 qualified applicants will be issued the license. If the commissioner determines that a  
19 competitive bid process is necessary, the best interest finding must include notice that  
20 the commissioner intends to request competitive bids.

21 (g) The commissioner shall establish in regulation the criteria for the  
22 assessment of competitive bids under (f) of this section and for the determination of a  
23 successful bidder.

24 (h) If a lessee under AS 38.05.135 - 38.05.181 in the area covered by a  
25 proposed carbon storage exploration license participates in a competitive bid process  
26 under (f) of this section and is not the successful bidder, before issuing the license, the  
27 commissioner shall provide the lessee an opportunity to match the successful bid. If  
28 the lessee matches the successful bid, the commissioner shall issue a carbon storage  
29 exploration license to the lessee.

30 (i) A carbon storage exploration license issued under this section and a carbon  
31 storage lease under AS 38.05.720 or 38.05.725 must include

1 (1) a covenant from the licensee not to unreasonably interfere with the  
2 rights of a lessee under AS 38.05.135 - 38.05.181; and

3 (2) a clause by which the licensee indemnifies the state for any  
4 unreasonable interference the licensee might cause to the rights of a lessee under  
5 AS 38.05.135 - 38.05.181.

6 (j) When notice is required under this section, the department shall follow the  
7 requirements for notice under AS 38.05.945(b) and (c).

8 **Sec. 38.05.720. Conversion to lease by licensee.** (a) The commissioner may  
9 convert a carbon storage exploration license to a carbon storage lease if the licensee  
10 satisfies the requirements of AS 38.05.710(b) and complies with (b) of this section.

11 (b) To convert a carbon storage exploration license to a carbon storage lease, a  
12 licensee shall provide a copy of the permit obtained under AS 41.06.105 - 41.06.210  
13 to the commissioner. After receiving a copy of the permit, if the licensee is in  
14 compliance with AS 38.05.710(b), the commissioner shall issue a carbon storage lease  
15 for those areas of the exploration license approved for carbon storage by the permit. A  
16 lease issued under this section must include

17 (1) commercial terms for the lease as set out in the commissioner's  
18 finding under AS 38.05.715(d);

19 (2) the agreements required under AS 38.05.715(i); and

20 (3) any other condition or obligation deemed necessary by the  
21 commissioner or required by regulation.

22 **Sec. 38.05.725. Concurrent carbon storage leasing.** (a) A lessee under  
23 AS 38.05.180 injecting under a Class II well permit shall apply for a carbon storage  
24 lease from the department before engaging in injection operations that may require a  
25 Class VI injection permit from the United States Environmental Protection Agency or  
26 a storage facility permit under AS 41.06.125.

27 (b) The issuance of a carbon storage lease under (a) of this section is vested  
28 solely in the commissioner's discretion. The commissioner may consider the  
29 qualifications and abilities of the lessee to meet the commercial requirements of a  
30 carbon storage lease and whether issuance of the lease is in the best interests of the  
31 state.

- 1 (c) A carbon storage lease issued under this section must include
- 2 (1) the minimum commercial terms described in AS 38.05.710(c)(2);
- 3 (2) the agreements required under AS 38.05.715(i);
- 4 (3) if the carbon storage lessee is not the same entity as the responsible
- 5 party under the existing lease, an assumption by the carbon storage lessee of any
- 6 dismantlement, removal, and restoration obligations set out in the oil and gas lease;
- 7 and
- 8 (4) any other conditions and obligations deemed necessary by the
- 9 commissioner or required by regulation.

10 **Sec. 38.05.730. Plan of development and operations; unitization.** (a) The

11 commissioner shall require the filing and approval of a plan of development and

12 operation for a carbon storage lease.

13 (b) To prevent or assist in preventing waste, and to protect the correlative

14 rights of persons owning interests in the tracts of lands affected, with the approval of

15 the commissioner, lessees may validly integrate their interests to provide for the

16 unitized management, development, and operation of the tracts of land as a unit. The

17 commissioner may suspend or modify a development plan approved under (a) of this

18 section in accordance with the unit agreement.

19 (c) A lease operated under a plan approved or prescribed by the commissioner

20 is excepted from determining holdings or control under AS 38.05.140. The provisions

21 of this section concerning cooperative or unit plans are in addition to and do not affect

22 AS 31.05 and AS 41.06.

23 **Sec. 38.05.735. Payments from carbon storage exploration licenses and**

24 **carbon storage leases.** Except as otherwise provided under art. IX, sec. 15,

25 Constitution of the State of Alaska, the department shall deposit in the general fund

26 the money it collects under AS 38.05.700 - 38.05.795.

27 **Sec. 38.05.795. Definitions.** In AS 38.05.700 - 38.05.795, unless the context

28 requires otherwise,

- 29 (1) "carbon dioxide" means carbon dioxide of a quality that
- 30 (A) will not compromise the safety of geologic storage; and
- 31 (B) will not compromise the properties of a storage reservoir

1 that allow the reservoir to effectively enclose and contain a stored gas or stored  
2 supercritical fluid;

3 (2) "carbon storage" means the permanent or short-term underground  
4 storage of carbon dioxide in a geologic storage reservoir;

5 (3) "geologic storage" has the meaning given in AS 41.06.210;

6 (4) "pore space" means a geologic storage reservoir, cavity, or void in  
7 a subsurface sedimentary stratum;

8 (5) "reservoir" has the meaning given in AS 41.06.210;

9 (6) "supercritical fluid" means a substance at or above its critical  
10 temperature and critical pressure that is neither a liquid nor a gas but that has  
11 properties of both.

12 \* **Sec. 15.** AS 38.35.020(a) is amended to read:

13 (a) Rights-of-way on state land including rights-of-way over, under, along,  
14 across, or upon the right-of-way of a public road or highway or the right-of-way of a  
15 railroad or other public utility, or across, upon, over, or under a river or other body of  
16 water or land belonging to or administered by the state may be granted by  
17 noncompetitive lease by the commissioner for pipeline purposes for the transportation  
18 of oil, products, **carbon dioxide**, or natural gas under those conditions prescribed by  
19 law or by administrative regulation. Except to the extent authorized by an oil and gas  
20 lease, a gas only lease, **carbon storage lease**, or an oil and gas or gas only **or carbon**  
21 **storage** unit agreement approved by the state, no person may engage in any  
22 construction or operation of any part of an oil, products, **carbon dioxide**, or natural  
23 gas pipeline, which in whole or in part is or is proposed to be on state land unless that  
24 person has obtained from the commissioner a right-of-way lease of the land under this  
25 chapter.

26 \* **Sec. 16.** AS 38.35.020(b) is amended to read:

27 (b) The commissioner may by regulation exempt the construction or operation  
28 **(1)** of field gathering lines or any reasonable classification of them  
29 from the requirement of a right-of-way lease under this chapter; **and**  
30 **(2) of a pipeline transporting carbon dioxide within a field for the**  
31 **purpose of an enhanced oil recovery project or field pressurization measures**

1 within that same field from the requirement of a right-of-way lease under this  
2 chapter.

3 \* **Sec. 17.** AS 38.35.122 is amended to read:

4 **Sec. 38.35.122. Products pipeline and carbon dioxide transportation**  
5 **pipeline leases.** The commissioner has discretion to include any or all of the terms set  
6 out in AS 38.35.120 in leases of state land for products pipeline right-of-way purposes  
7 **or carbon dioxide transportation pipeline right-of-way purposes.**

8 \* **Sec. 18.** AS 38.35.230(3) is amended to read:

9 (3) "lease" means the instrument or extension of an instrument issued  
10 under this chapter granting a leasehold interest in state land for pipeline right-of-way  
11 purposes to a person and authorizing the construction or operation of, or  
12 transportation, service or sale by a pipeline for crude oil, natural gas, **carbon dioxide,**  
13 or products;

14 \* **Sec. 19.** AS 38.35.230(7) is amended to read:

15 (7) "pipeline" or "pipeline facility" means all the facilities of a total  
16 system of pipe, whether owned or operated under a contract, agreement, or lease, used  
17 by a carrier for transportation of crude oil, natural gas, **carbon dioxide,** or products for  
18 delivery, for storage, or for further transportation, and including all pipe, pump or  
19 compressor stations, station equipment, tanks, valves, access roads, bridges, airfields,  
20 terminals and terminal facilities, including docks and tanker loading facilities,  
21 operations control center for both the upstream part of the pipeline and the terminal,  
22 tanker ballast treatment facilities, and fire protection system, communication system,  
23 and all other facilities used or necessary for an integral line of pipe, taken as a whole,  
24 to effectuate transportation, including an extension or enlargement of the line;

25 \* **Sec. 20.** AS 38.35.230(10) is amended to read:

26 (10) "transportation" means the shipment or carriage by a pipeline of  
27 crude oil, natural gas, **carbon dioxide,** or products from an upstream terminus in one  
28 or more fields or points of production or supply of the minerals to a downstream  
29 terminus in one or more points for delivery of the minerals to a purchaser or  
30 consignee, for storage, or for further carriage or shipment, including shipment or  
31 carriage within the state that may be classified as interstate or foreign transportation to

1 the extent that the transportation may constitutionally be subjected to the provisions of  
 2 this chapter, as well as all services necessary to effectuate shipment or carriage,  
 3 including, among other things, the receipt, storage, processing, handling, transfer in  
 4 transit, forwarding, and delivery of the minerals.

5 \* **Sec. 21.** AS 38.35.230 is amended by adding a new paragraph to read:

6 (11) "carbon dioxide" has the meaning given in AS 38.05.795.

7 \* **Sec. 22.** AS 41.06.005 is amended to read:

8 **Sec. 41.06.005. Jurisdiction over geothermal resources.** (a) The commission  
 9 has jurisdiction under AS 41.06.005 - 41.06.060 [THIS CHAPTER] over geothermal  
 10 wells to prevent waste, to protect correlative rights, and to ensure public safety.

11 (b) The Department of Natural Resources has jurisdiction under AS 41.06.005  
 12 - 41.06.060 [THIS CHAPTER] over management of geothermal leases and units in the  
 13 public interest and to effect development.

14 \* **Sec. 23.** AS 41.06.020 is amended to read:

15 **Sec. 41.06.020. Authority of commission; application.** (a) The commission  
 16 has jurisdiction over all persons and property, public and private, necessary to carry  
 17 out the purposes and intent of AS 41.06.005 - 41.06.060 [THIS CHAPTER].

18 (b) The authority of the commission applies to all land in the state lawfully  
 19 subject to the police power of the state, including private land, municipal land, state  
 20 land, land of the United States, and land subject to the jurisdiction of the United  
 21 States, and to all land included in a voluntary cooperative or unit plan of development  
 22 or operation entered into in accordance with AS 38.05.181. When land that is subject  
 23 to the commission's authority is committed to a unit agreement involving land subject  
 24 to federal jurisdiction, the operation of AS 41.06.005 - 41.06.060 [THIS CHAPTER]  
 25 or a part of AS 41.06.005 - 41.06.060 [THIS CHAPTER] may be suspended if

26 (1) the unit operations are regulated by the United States; and

27 (2) the conservation of geothermal resources is accomplished under the  
 28 unit agreement.

29 (c) The provisions of AS 41.06.005 - 41.06.060 apply [THIS CHAPTER  
 30 APPLIES]

31 (1) to wells drilled in search of, in support of, or for the recovery or

1 production of geothermal resources;

2 (2) when a person engaged in drilling activity not otherwise subject to  
3 the provisions of AS 41.06.005 - 41.06.060 [THIS CHAPTER] encounters geothermal  
4 resources, fluid, or water of sufficient heat or pressure to constitute a threat to human  
5 life or health unless the drilling operation is subject to oil and gas drilling regulation  
6 under AS 31.05;

7 (3) in areas and under conditions in which the commission determines  
8 that drilling may encounter geothermal resources, fluid, or water of sufficient heat or  
9 pressure to constitute a threat to human life or health.

10 (d) To the extent the provisions of AS 31.05 do not conflict with the  
11 provisions of AS 41.06.005 - 41.06.060 [THIS CHAPTER], the provisions of  
12 AS 31.05 are applicable to wells drilled in search of, in support of, or for the recovery  
13 or production of geothermal resources.

14 (e) Nothing in AS 41.06.005 - 41.06.060 [THIS CHAPTER] limits the  
15 authority of the department

16 (1) over geothermal resources under AS 38.05.181; or

17 (2) to approve and manage geothermal units or operations that include  
18 state land.

19 \* **Sec. 24.** AS 41.06.030(e) is amended to read:

20 (e) The commissioner may adopt regulations under AS 44.62 to carry out the  
21 purposes and intent of AS 41.06.005 - 41.06.060 [THIS CHAPTER] for duties  
22 assigned to the department, including the promotion of maximum economic recovery.

23 \* **Sec. 25.** AS 41.06.035(b) is amended to read:

24 (b) The commission may adopt regulations under AS 44.62 and issue orders  
25 appropriate to carry out the purposes and intent of AS 41.06.005 - 41.06.060 [THIS  
26 CHAPTER] for duties assigned to the commission, including orders regarding the  
27 establishment of drilling units for pools as set out in AS 31.05.100 and orders  
28 regarding unitized operation and integration of interests as set out in AS 31.05.110.

29 \* **Sec. 26.** AS 41.06.040(a) is amended to read:

30 (a) The commission shall adopt regulations under AS 44.62 (Administrative  
31 Procedure Act), issue orders, and take other appropriate action to carry out the

1 purposes and intent of AS 41.06.005 - 41.06.060 [THIS CHAPTER], including  
 2 adopting regulations to prevent

3 (1) geothermal resources, water or other fluids, and gases from  
 4 escaping into strata other than that in which they are found, unless in accordance with  
 5 an approved reinjection program;

6 (2) contamination of surface and groundwater;

7 (3) premature degradation of a geothermal system by water  
 8 encroachment or otherwise;

9 (4) blowouts, cavings, and seepage; and

10 (5) unreasonable disturbance or injury to neighboring properties, prior  
 11 water rights, prior oil or gas rights, human life, health, and the natural environment.

12 \* **Sec. 27.** AS 41.06.050(e) is amended to read:

13 (e) In making the determination under (d) of this section, the commission shall  
 14 consider whether the

15 (1) proposed well will significantly interfere with or substantially  
 16 impair a prior water, oil, or gas right;

17 (2) proposed well is contrary to a provision of AS 41.06.005 -  
 18 41.06.060 [THIS CHAPTER], a regulation adopted by the commission, another law,  
 19 or an order, stipulation, or term of a permit issued by the commission; and

20 (3) applicant is in violation of a provision of AS 41.06.005 - 41.06.060  
 21 [THIS CHAPTER], a regulation adopted by the commission, another law, or an order,  
 22 stipulation, or term of a permit issued by the commission; the commission shall  
 23 consider the magnitude of the violation.

24 \* **Sec. 28.** AS 41.06.055(c) is amended to read:

25 (c) The commission shall determine the regulatory cost charges levied under  
 26 this section so that the total amount to be collected approximately equals the  
 27 appropriations made for the operating costs of the commission that have been incurred  
 28 under AS 41.06.005 - 41.06.060 [THIS CHAPTER] for the fiscal year.

29 \* **Sec. 29.** AS 41.06.055(d) is amended to read:

30 (d) The commission shall collect the regulatory cost charges imposed under  
 31 this section. The Department of Administration shall identify the amount of



1 appropriations made for the operating costs of the commission under AS 41.06.005 -  
 2 41.06.060 [THIS CHAPTER] that lapse into the general fund each year. The  
 3 legislature may appropriate an amount that is at least equal to the lapsed amount to the  
 4 commission for its operating costs under AS 41.06.005 - 41.06.060 [THIS  
 5 CHAPTER] for the next fiscal year. If the legislature makes an appropriation to the  
 6 commission under this subsection that is equal to or greater than the lapsed amount,  
 7 the commission shall reduce the total regulatory cost charge collected for that fiscal  
 8 year by a comparable amount.

9 \* **Sec. 30.** AS 41.06.060 is amended to read:

10 **Sec. 41.06.060. Definitions.** In AS 41.06.005 - 41.06.060 [THIS CHAPTER],  
 11 unless the context otherwise requires,

12 (1) "commercial use" means the sale of heat or power to a third party;

13 (2) "commission" means the Alaska Oil and Gas Conservation  
 14 Commission created under AS 31.05.005;

15 (3) "correlative rights" means the right of an owner of each property in  
 16 a geothermal system to produce without waste the owner's just and equitable share of  
 17 the geothermal resources in the geothermal system; a just and reasonable share is an  
 18 amount, so far as can be practically determined and so far as can be practically  
 19 produced without waste, that is substantially in proportion to the quantity of  
 20 recoverable geothermal resources under the owner's property relative to the total  
 21 recoverable geothermal resources in the geothermal system;

22 (4) "geothermal fluid" means liquids and steam at temperatures greater  
 23 than 120 degrees Celsius or any commercial use of liquids and steam naturally present  
 24 in a geothermal system at temperatures less than 120 degrees Celsius;

25 (5) "geothermal resources"

26 (A) means the natural heat of the earth at temperatures greater  
 27 than 120 degrees Celsius, or any use of that heat for commercial purposes,  
 28 measured at the point where the highest-temperature resources encountered  
 29 enter or contact a well or other resource extraction device or any commercial  
 30 use of the natural heat of the earth;

31 (B) includes

1 (i) the energy, including pressure, in whatever form  
2 present in, resulting from, created by, or that may be extracted from  
3 that natural heat;

4 (ii) the material medium, including steam and other  
5 gases, hot water, and hot brines constituting the geothermal fluid  
6 naturally present, as well as substances artificially introduced to serve  
7 as a heat transfer medium; and

8 (iii) all dissolved or entrained minerals and gases that  
9 may be obtained from the material medium, but excluding hydrocarbon  
10 substances and helium;

11 (6) "geothermal system" means a stratum, pool, reservoir, or other  
12 geologic formation containing geothermal resources;

13 (7) "operator" means a person drilling, maintaining, operating,  
14 producing, or in control of a well;

15 (8) "owner" means the person who has the right to drill into or produce  
16 from a geothermal system and to appropriate the geothermal resources produced from  
17 a geothermal system for that person and others;

18 (9) "waste" means, in addition to its ordinary meaning, physical waste,  
19 and includes an inefficient, excessive, or improper production, use, or dissipation of  
20 geothermal resources, including

21 (A) drilling, transporting, or storage methods that cause or tend  
22 to cause unnecessary surface loss of geothermal resources;

23 (B) locating, spacing, drilling, equipping, operating, producing,  
24 or venting of a well in a manner that results or tends to result in reducing the  
25 ultimate economic recovery of geothermal resources;

26 (10) "well" means a well drilled, converted, or reactivated for the  
27 discovery, testing, production, or subsurface injection of geothermal resources.

28 \* **Sec. 31.** AS 41.06 is amended by adding new sections to read:

29 **Article 2. Carbon Dioxide Injection and Storage.**

30 **Sec. 41.06.105. Policy on carbon dioxide storage.** For the purposes of  
31 protecting health, safety, and property in the state, it is in the public interest that to the

1 extent economically and technologically feasible, carbon dioxide be injected into and  
 2 stored in oil and gas reservoirs and other geologic formations in a manner protective  
 3 of waters and reservoir integrity. The state recognizes that geologic storage of carbon  
 4 dioxide may require the cooperation of mineral interest holders and that, when  
 5 cooperation is not achieved, regulatory procedures that promote cooperative  
 6 management for protection and maximization of resources are necessary.

7 **Sec. 41.06.110. Jurisdiction over storage facilities.** The commission has  
 8 jurisdiction under AS 41.06.105 - 41.06.210 over storage facilities to prevent waste,  
 9 protect correlative rights, and ensure public health and safety.

10 **Sec. 41.06.115. Authority of the commission.** (a) The authority of the  
 11 commission applies to all land in the state lawfully subject to the police power of the  
 12 state, including private land, municipal land, state land, federal land, and land subject  
 13 to the jurisdiction of the United States, and to all land included in a voluntary  
 14 cooperative or unit plan of development or operation entered into in accordance with  
 15 AS 38.05.730.

16 (b) When land that is subject to the commission's authority is committed to a  
 17 unit agreement involving land subject to federal jurisdiction, the operation of  
 18 AS 41.06.105 - 41.06.210 may be suspended if

19 (1) the unit operations are regulated by the United States; and

20 (2) conservation of resources in the reservoir or pool is accomplished  
 21 in the agreement.

22 (c) The commission has the authority to

23 (1) regulate activities related to a storage facility, including  
 24 construction, operation, and closure;

25 (2) require that storage operators provide assurance, including bonds,  
 26 that money is available to fulfill the storage operator's duties;

27 (3) enter, at a reasonable time and manner, a storage facility to

28 (A) inspect equipment and facilities;

29 (B) observe, monitor, and investigate operation; and

30 (C) inspect records required to be maintained at the facility;

31 (4) exercise continuing jurisdiction over storage operators and storage

1 facilities, including the authority, after notice and hearing, to amend provisions in a  
2 permit and to revoke a permit;

3 (5) dissolve or change the boundaries of any commission-established  
4 oil or gas field or unit that is within or near a storage reservoir's boundaries; and

5 (6) grant, for good cause, exceptions to the requirements and  
6 implementing rules of AS 41.06.105 - 41.06.210.

7 (d) To the extent AS 31.05 does not conflict with AS 41.06.105 - 41.06.210,  
8 the provisions of AS 31.05 are applicable to wells drilled in search of, in support of,  
9 and for carbon dioxide storage.

10 (e) Nothing in AS 41.06.105 - 41.06.210 limits the authority of the  
11 Department of Natural Resources under AS 38.05.700 - 38.05.795.

12 **Sec. 41.06.120. Waste prohibited; investigation.** Waste in a storage facility  
13 or reservoir in the state is prohibited. The commission may investigate to determine  
14 whether waste exists or is imminent, or whether other facts exist that justify or require  
15 action by the commission to prohibit waste. The injection of carbon dioxide and  
16 substances commonly associated with carbon dioxide injection is not considered  
17 waste.

18 **Sec. 41.06.125. Storage facility permit.** (a) A prospective storage operator is  
19 required to obtain a permit from the commission.

20 (b) A permit may not be transferred unless the commission consents.

21 (c) A person applying for a permit shall

22 (1) request a pre-application meeting with the commission staff;

23 (2) comply with application requirements;

24 (3) pay a fee in an amount determined by the commission; and

25 (4) pay the commission the cost the commission incurs in reviewing an  
26 application, publishing notices for hearings, and holding hearings on permit  
27 applications.

28 (d) A permit application must include sufficient information to enable the  
29 commission to determine whether the storage facility will interfere with or impair an  
30 existing water, oil, gas, or other mineral interest.

31 (e) The amount of the fee in (c)(3) of this section must be based on the

1 commission's anticipated cost of processing applications, including any preliminary  
2 work in advance of receipt of an application. The commission may enter into an  
3 agreement with a prospective applicant that requires the applicant to reimburse the  
4 commission for reasonable costs of work incurred in preparing for activities before  
5 receipt of an application.

6 (f) A fee the commission receives under this section must be deposited into the  
7 carbon dioxide storage facility administrative fund established in AS 41.06.165.

8 **Sec. 41.06.130. Hearing on permit application.** (a) Before issuing a permit  
9 for a storage facility, the commission shall hold a public hearing.

10 (b) The commission shall provide notice of a public hearing under this section.  
11 The notice must be provided in the same manner as a notice under AS 31.05.050(b)  
12 and be provided to

13 (1) each mineral lessee, mineral owner, and mineral right owner of  
14 record within the storage reservoir and within one-half mile of the storage reservoir's  
15 boundaries;

16 (2) each surface owner of land overlying the storage reservoir and  
17 within one-half mile of the reservoir's boundaries; and

18 (3) any additional persons that the commission requires.

19 (c) A hearing notice required by this section must comply with deadlines set  
20 by the commission.

21 **Sec. 41.06.135. Permit requirements.** (a) The commission shall consult with  
22 the Department of Environmental Conservation and the Department of Natural  
23 Resources before issuing a permit under AS 41.06.125.

24 (b) Before the commission may approve a permit applied for under  
25 AS 41.06.125, the commission shall find

26 (1) that the storage operator has complied with all requirements set by  
27 the commission;

28 (2) that the proposed storage facility is suitable and feasible for carbon  
29 dioxide injection and storage;

30 (3) that the carbon dioxide to be stored is of a quality that allows it to  
31 be safely and efficiently stored in the storage reservoir;

1 (4) that the storage operator has made a good-faith effort to get the  
2 consent of all persons with an ownership interest in the reservoir and surface owners  
3 of land overlying the proposed storage reservoir;

4 (5) if the proposed storage facility contains commercially valuable  
5 minerals, that the interests of the mineral owners or mineral lessees will not be  
6 adversely affected or have been addressed in an arrangement entered into by the  
7 mineral owners or mineral lessees and the storage operator;

8 (6) that the proposed storage facility will not adversely affect surface  
9 waters or formations containing fresh water;

10 (7) that carbon dioxide is not reasonably anticipated to escape from the  
11 storage reservoir;

12 (8) that substances that compromise the objectives of AS 41.06.105 -  
13 41.06.210 or the integrity of a storage reservoir will not enter a storage reservoir;

14 (9) that the proposed storage facility will not endanger human health or  
15 unduly endanger the environment;

16 (10) that the proposed storage facility is in the public interest;

17 (11) that the horizontal and vertical boundaries of the proposed storage  
18 reservoir are defined and the boundaries include buffer areas to ensure that the storage  
19 facility is operated safely and as contemplated;

20 (12) that the storage operator will establish monitoring facilities and  
21 protocols to assess the location and migration of carbon dioxide injected for storage  
22 and to ensure compliance with all permit, statutory, and administrative requirements;

23 (13) that all nonconsenting land owners or holders of mineral rights are  
24 or will be equitably compensated; and

25 (14) that the storage operator is not in violation of a provision of  
26 AS 41.06.105 - 41.06.210 or regulations adopted by the commission.

27 **Sec. 41.06.140. Permit provisions.** The commission may include in a permit  
28 or order any parameters necessary to carry out the objectives of AS 41.06.105 -  
29 41.06.210 and to protect and adjust the respective rights and obligations of persons  
30 affected by geologic storage.

31 **Sec. 41.06.145. Amalgamating property interests.** If a storage operator does

1 not obtain the consent of all persons with an ownership interest in the storage  
2 reservoir, the commission may order that the mineral rights of nonconsenting owners  
3 be included in a storage facility and subject to geologic storage. Before the  
4 commission may issue an order effectuating an amalgamation under this section, the  
5 commission must provide public notice and hold a hearing.

6 **Sec. 41.06.150. Certificate.** When the commission issues a permit under  
7 AS 41.06.125, the commission shall also issue a certificate that states the permit has  
8 been issued, describes the area covered, and contains information the commission  
9 deems appropriate. The storage operator may file a copy of the certificate with the  
10 office of the recorder in the district the facility is located.

11 **Sec. 41.06.155. Environmental protection; reservoir integrity.** (a) The  
12 commission shall take action to ensure that

13 (1) substances that compromise the integrity of a storage reservoir do  
14 not enter a storage reservoir; and

15 (2) carbon dioxide does not escape from a storage facility.

16 (b) For the purposes of this section and in the application of other laws, carbon  
17 dioxide that is stored and remains in storage under a permit is not a pollutant and does  
18 not constitute a nuisance.

19 (c) The commission's authority under (a) of this section does not limit the  
20 jurisdiction of the Department of Environmental Conservation.

21 **Sec. 41.06.160. Preservation of rights.** Nothing in AS 41.06.105 - 41.06.210

22 (1) prejudices the rights of those with property interests within a  
23 storage facility to exercise rights that have not been committed to a storage facility; or

24 (2) prevents a mineral owner or mineral lessee from drilling through or  
25 near a storage reservoir to explore for and develop minerals, provided the drilling,  
26 production, and related activities comply with commission requirements that preserve  
27 the storage facility's integrity and protect the objectives of AS 41.06.105 - 41.06.210.

28 **Sec. 41.06.165. Fees; carbon dioxide storage facility administrative fund.**

29 (a) A storage operator shall pay the commission a fee on each ton of carbon dioxide  
30 injected for geologic storage. The fee must be in the amount set by the commission.  
31 The amount must be based on the anticipated expenses that the commission will incur

1 in regulating storage facilities during their construction, operational, and pre-closure  
2 phases. The fee shall be deposited in the carbon dioxide storage facility administrative  
3 fund established in (b) of this section.

4 (b) The carbon dioxide storage facility administrative fund is established in  
5 the general fund. The fund consists of

- 6 (1) fees received under (a) of this section;
- 7 (2) fees received under AS 41.06.125 and 41.06.200; and
- 8 (3) interest earned on the fund.

9 (c) Expenditure from the fund is subject to appropriation. The appropriation  
10 may be made by general appropriation of program receipts conditioned on compliance  
11 with the program review provisions of AS 37.07.080(h). The commission, however,  
12 through a cooperative agreement with another state agency, may use the fund to  
13 compensate the cooperating agency for expenses the cooperating agency incurs in  
14 carrying out regulatory responsibilities that the agency may have over a storage  
15 facility.

16 **Sec. 41.06.170. Title to carbon dioxide.** The storage operator has title to the  
17 carbon dioxide injected into and stored in a storage reservoir and holds title until the  
18 commission issues a certificate of completion under AS 41.06.175. While the storage  
19 operator holds title, the operator is liable for any damage the carbon dioxide may  
20 cause, including damage caused by carbon dioxide that escapes from the storage  
21 facility.

22 **Sec. 41.06.175. Certificate of completion, release, and transfer of title and**  
23 **custody.** (a) After carbon dioxide injections into a reservoir end and upon application  
24 by the storage operator, the commission shall consider issuing a certificate of  
25 completion. The certificate may only be issued after public notice and hearing. The  
26 commission shall establish notice requirements for the hearing. The certificate may  
27 only be issued after the commission has consulted with the Department of  
28 Environmental Conservation, the Department of Natural Resources, and all persons  
29 with an ownership interest in the storage reservoir. The certificate may not be issued  
30 until at least 10 years after carbon dioxide injections end.

31 (b) A certificate of completion may only be issued if the storage operator



- 1 (1) is in full compliance with all laws governing the storage facility;
- 2 (2) shows that the operator has addressed all pending claims regarding  
3 the storage facility's operation;
- 4 (3) shows that the underground place or pore space where the carbon  
5 dioxide was injected or stored is expected to no longer expand vertically or  
6 horizontally and is expected to pose no threat to human health, human safety, the  
7 environment, or underground sources of drinking water;
- 8 (4) shows that the stored or injected carbon dioxide is unlikely to cross  
9 any underground or pore space boundary and is not expected to endanger any  
10 underground source of drinking water or otherwise endanger human health, human  
11 safety, or the environment;
- 12 (5) shows that all wells, equipment, and facilities to be used in the  
13 post-closure period are in good condition and retain mechanical integrity;
- 14 (6) shows that the operator has plugged wells, removed equipment and  
15 facilities, and completed reclamation work as required by the commission;
- 16 (7) has paid all fees and surcharges for the facility; and
- 17 (8) meets any other regulatory requirements established by the state.

18 (c) Once a certificate of completion is issued, title to the storage facility and to  
19 the stored carbon dioxide transfers, without payment of any compensation, to the state  
20 under management of the Department of Natural Resources. Title acquired by the state  
21 includes all rights and interests in, and all responsibilities associated with, the stored  
22 carbon dioxide. The storage operator and all persons who generated any injected  
23 carbon dioxide are released from liability to the state associated with the storage  
24 facility, provided that the liability to the state shall not result in the payment of any  
25 damages in excess of the balance of the carbon storage closure trust fund established  
26 in AS 37.14.850. Any bonds posted by the storage operator must be released.

27 **Sec. 41.06.180. Carbon storage facility injection surcharge.** A storage  
28 operators shall pay the commission a surcharge on each ton of carbon dioxide injected  
29 for storage. The surcharge must be in the amount set by the commission. The amount  
30 must be based on anticipated expenses that the state will incur in regulating storage  
31 facilities during post-closure phases. The surcharge shall be deposited in the carbon

1 storage closure trust fund established in AS 37.14.850.

2 **Sec. 41.06.185. Penalties.** (a) In addition to the penalties in (b) - (d) of this  
3 section, a person who violates a provision of AS 41.06.105 - 41.06.210 or a  
4 commission regulation, order, or term of a permit issued under AS 41.06.105 -  
5 41.06.210, is liable for a civil penalty of not more than \$100,000 for the initial  
6 violation and not more than \$10,000 for each day after that on which the violation  
7 continues.

8 (b) A person who knowingly commits an act specified in AS 11.46.630(a) for  
9 the purpose of evading a provision of this chapter, a regulation adopted under this  
10 chapter, or an order, stipulation, or term of a permit issued by the commission is guilty  
11 of a class A misdemeanor.

12 (c) A person who knowingly aids or abets another person in the violation of a  
13 provision of this chapter, a regulation adopted under this chapter, or an order,  
14 stipulation, or term of a permit issued by the commission is subject to the same  
15 penalty as that prescribed in this chapter for the violation by the other person.

16 (d) A person who knowingly violates a provision of this chapter, a regulation  
17 adopted under this chapter, or an order, stipulation, or term of a permit issued by the  
18 commission is guilty of a misdemeanor punishable by a fine of not more than \$10,000  
19 a day for each day of violation.

20 (e) The commission may assess the civil penalties provided in this section,  
21 and, if not paid, the penalties are recoverable by suit filed by the attorney general in  
22 the name and on behalf of the commission in the superior court. The payment of a  
23 penalty does not relieve a person on whom the penalty is imposed from liability to any  
24 other person for damages arising out of the violation.

25 (f) In determining the amount of a penalty assessed under (a) of this section,  
26 the commission shall consider

27 (1) the extent to which the person committing the violation was acting  
28 in good faith in attempting to comply;

29 (2) the extent to which the person committing the violation acted in a  
30 wilful or knowing manner;

31 (3) the extent and seriousness of the violation and the actual or

1 potential threat to public health or the environment;

2 (4) the economic or environmental harm, or injury to the public,  
3 caused by the violation;

4 (5) the economic value or other benefits derived by the person  
5 committing the violation from the violation;

6 (6) any history of previous violations by the person committing the  
7 violation;

8 (7) the need to deter similar behavior by the person committing the  
9 violation and others similarly situated at the time of the violation or in the future;

10 (8) the effort made by the person committing the violation to correct  
11 the violation and prevent future violations; and

12 (9) other matters justice requires.

13 **Sec. 41.06.190. Enhanced oil recovery.** (a) Except as provided in (b) of this  
14 section, the provisions of AS 41.06.105 - 41.06.210 do not apply to applications filed  
15 with the commission proposing to use carbon dioxide for enhanced oil or gas  
16 recovery.

17 (b) The commission may adopt regulations that allow enhanced oil or gas  
18 recovery and related well activities to be converted to a storage facility. If adopted, the  
19 regulations must require that in considering whether to approve a conversion, and  
20 upon conversion, AS 41.06.105 - 41.06.210 and its implementing rules apply. The  
21 regulations may impose additional requirements to, or waive the requirements of,  
22 AS 41.06.105 - 41.06.210 for good cause and to ensure that the objectives of  
23 AS 41.06.105 - 41.06.210 are met.

24 **Sec. 41.06.195. Cooperative agreements and contracts.** (a) The commission  
25 may enter into agreements with other governments, government entities, and state  
26 agencies for the purpose of carrying out the objectives of AS 41.06.105 - 41.06.210.

27 (b) The commission may enter into contracts with private persons to assist in  
28 carrying out the objectives of AS 41.06.105 - 41.06.210. If an emergency exists, the  
29 commission may enter into contracts without public notice and without competitive  
30 bidding.

31 **Sec. 41.06.200. Determining storage amounts; carbon credits; fees.** (a) The

1 commission, under procedures and criteria the commission may adopt, may determine  
2 the amount of carbon dioxide that may be injected and stored in a reservoir, including  
3 for enhanced oil or gas recovery.

4 (b) The purpose of determining storage amounts is to facilitate using the  
5 stored carbon dioxide for matters including carbon credits, allowances, trading,  
6 emissions allocations, and offsets. The commission may charge a reasonable fee to a  
7 person requesting a storage determination. The commission shall set the fee by  
8 regulation. A fee the commission receives for a storage determination must be  
9 deposited into the carbon dioxide storage facility administrative fund established in  
10 AS 41.06.165.

11 **Sec. 41.06.210. Definitions.** In AS 41.06.105 - 41.06.210, unless the context  
12 requires otherwise,

13 (1) "carbon dioxide" means carbon dioxide of a quality that

14 (A) will not compromise the safety of geologic storage; and

15 (B) will not compromise the properties of a storage reservoir  
16 that allow the reservoir to effectively enclose and contain a stored gas or stored  
17 supercritical fluid;

18 (2) "commission" means the Alaska Oil and Gas Conservation  
19 Commission created under AS 31.05.005;

20 (3) "geologic storage" means the permanent or short-term underground  
21 storage of carbon dioxide in a storage reservoir;

22 (4) "permit" means a permit issued by the commission allowing a  
23 person to operate a storage facility;

24 (5) "pore space" means a cavity or void in a subsurface sedimentary  
25 stratum;

26 (6) "reservoir" means a subsurface sedimentary stratum, formation,  
27 aquifer, cavity, or void, including pore space, oil and gas reservoirs, saline formations,  
28 and coal seams suitable for or capable of being made suitable for injecting and storing  
29 carbon dioxide;

30 (7) "storage facility" means the storage reservoir, underground  
31 equipment, well, and surface facilities and equipment used or proposed to be used in

1 accordance with a permit; "storage facility" does not include pipelines, compressors,  
 2 surface facilities, and equipment used to transport carbon dioxide to the storage  
 3 facility that are unrelated to well safety and metering;

4 (8) "storage operator" means a person holding or applying for a permit;

5 (9) "storage reservoir" means a reservoir proposed, authorized, or used  
 6 for storing carbon dioxide;

7 (10) "supercritical fluid" means a substance at or above its critical  
 8 temperature and critical pressure that is neither a liquid nor a gas but that has  
 9 properties of both;

10 (11) "waste" means, in addition to its ordinary meaning, physical  
 11 waste, and includes inefficient, excessive, or improper operation of a storage facility  
 12 or well;

13 (12) "well" means a well that is drilled, converted, or reactivated for  
 14 discovery, testing, or subsurface injection into a reservoir.

15 \* **Sec. 32.** AS 41.21.167(a) is amended to read:

16 (a) The land and water areas described in AS 41.21.161 are not open to  
 17 mineral entry under AS 38.05.135 - 38.05.275 **and 38.05.700 - 38.05.795.**

18 \* **Sec. 33.** AS 41.21.491(d) is amended to read:

19 (d) Except for oil and gas leasing under AS 38.05.180 **and carbon storage**  
 20 **licensing and leasing under AS 38.05.700 - 38.05.795,** the mineral estate in the state-  
 21 owned land and water described in (a) of this section is closed to mineral entry under  
 22 AS 38.05.181 - 38.05.275.

23 \* **Sec. 34.** AS 41.21.502(c) is amended to read:

24 (c) The mineral estate in the state-owned land and water described in (a) of  
 25 this section is open to oil and gas leasing under AS 38.05.180 **and carbon storage**  
 26 **licensing and leasing under AS 38.05.700 - 38.05.795.** The mineral estate in the  
 27 state-owned land and water described in (a) of this section is closed to mineral entry  
 28 under AS 38.05.181 - 38.05.275.

29 \* **Sec. 35.** AS 41.21.617 is amended to read:

30 **Sec. 41.21.617. Other uses generally.** The state land and water described in  
 31 AS 41.21.611(b) is closed to mineral entry under AS 38.05.135 - 38.05.275 **and**

1        **38.05.700 - 38.05.795**, to commercial harvest of timber, and to sale under state land  
2        disposal laws. The commissioner may lease the land described in AS 41.21.611(b)  
3        under AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.21.610(a) and  
4        (b). A municipality may select land within the Alaska Chilkat Bald Eagle Preserve  
5        under law.

6        \* **Sec. 36.** AS 44.37.020 is amended by adding a new subsection to read:

7                (d) The Department of Natural Resources shall administer storage facilities  
8                and stored carbon transferred to the state under AS 41.06.175.

9        \* **Sec. 37.** The uncodified law of the State of Alaska is amended by adding a new section to  
10       read:

11                TRANSITION: REGULATIONS. The Department of Natural Resources and the  
12       Alaska Oil and Gas Conservation Commission may adopt regulations necessary to implement  
13       the changes made by this Act. The regulations take effect under AS 44.62 (Administrative  
14       Procedure Act), but not before the effective date of the law implemented by the regulation.

15       \* **Sec. 38.** The uncodified law of the State of Alaska is amended by adding a new section to  
16       read:

17                REVISOR'S INSTRUCTION. The revisor of statutes is requested to change the  
18       chapter heading for AS 41.06 from "Geothermal Resources" to "Geothermal Resources and  
19       Carbon Storage."

20       \* **Sec. 39.** Section 37 of this Act takes effect immediately under AS 01.10.070(c).