

CS FOR HOUSE BILL NO. 50(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered: 3/13/23

Referred: Finance

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to carbon storage on state land; relating to the powers and duties of the
2 Alaska Oil and Gas Conservation Commission; relating to carbon storage exploration
3 licenses; relating to carbon storage leases; relating to carbon storage operator permits;
4 relating to enhanced oil or gas recovery; relating to carbon oxide sequestration tax
5 credits; relating to the duties of the Department of Natural Resources; relating to
6 carbon dioxide pipelines; and providing for an effective date."

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

8 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

10 SHORT TITLE. This Act may be known as the Carbon Capture, Utilization, and
11 Storage Act.

12 * **Sec. 2.** AS 31.05.027 is amended to read:

13 **Sec. 31.05.027. Land subject to commission's authority.** The authority of the

1 commission applies to all land in the state lawfully subject to its police powers,
 2 including land of the United States and land subject to the jurisdiction of the United
 3 States. The authority of the commission further applies to all land included in a
 4 voluntary cooperative or unit plan of development or operation entered into in
 5 accordance with AS 38.05.180(p) **or 38.05.725.**

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

7 (h) The commission may take all actions necessary to allow the state to
 8 acquire primary enforcement responsibility under 42 U.S.C. 300h-1 and 42 U.S.C.
 9 300h-4 (Safe Drinking Water Act of 1974, as amended, 42 U.S.C. 300f - 300j-26), for
 10 the control of underground injection related to the recovery and production of oil and
 11 natural gas and the control of underground injection in Class I wells, as defined in 40
 12 C.F.R. 144.6, as amended, **and the control of underground injection in Class VI**
 13 **wells, as defined in 40 C.F.R. 144.6, as amended.**

14 * **Sec. 4.** AS 31.05.030(m) is amended to read:

15 (m) The commission has jurisdiction and authority over all persons and
 16 property, public and private, necessary to carry out the purposes and intent of
 17 AS 41.06, except for provisions in **AS 41.06.005 - 41.06.060** [AS 41.06] for which the
 18 Department of Natural Resources has jurisdiction.

19 * **Sec. 5.** AS 37.05.146(c) is amended by adding a new paragraph to read:

20 (85) carbon dioxide storage facility administrative fund
 21 (AS 41.06.160).

22 * **Sec. 6.** AS 37.14 is amended by adding a new section to read:

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

24 **Sec. 37.14.850. Carbon storage closure trust fund.** (a) The carbon storage
 25 closure trust fund is established as a separate trust fund of the state outside and
 26 separate from the general fund. The legislature may appropriate the principal and
 27 earnings of the fund for the purpose of protecting the public interest in maintaining
 28 and closing carbon storage facilities in the state. Money in the fund does not lapse.

29 (b) The carbon storage closure trust fund consists of payments received under
 30 (c) of this section and AS 41.06.175 and earnings on the fund.

31 (c) The Alaska Oil and Gas Conservation Commission and a storage operator

1 may execute a memorandum of understanding that outlines a schedule of expected
 2 payments into the fund and the relationship of the payments and accumulated earnings
 3 in the fund to the storage operator's obligations under AS 41.06.150 or 41.06.170. If
 4 the memorandum of understanding addresses investment of the fund with respect to
 5 payments made by the storage operator, the commissioner of revenue shall also sign
 6 the memorandum.

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

8 (e) In this section,

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

10 (2) "storage operator" has the meaning given in AS 41.06.210.

11 * **Sec. 7.** AS 38.05.069(e) is amended to read:

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

14 * **Sec. 8.** AS 38.05.070(a) is amended to read:

15 (a) Land, including tide, submerged, or shoreland, to which the state holds title
 16 or to which **the state** [IT] may become entitled, may be leased, except for the
 17 extraction of natural resources **and for carbon storage under AS 38.05.700 -**
 18 **38.05.795,** in the manner provided in AS 38.05.070 - 38.05.105.

19 * **Sec. 9.** AS 38.05.130 is amended to read:

20 **Sec. 38.05.130. Damages and posting of bond.** Rights may not be exercised
 21 by the state, its lessees, successors, or assigns under the reservation as set out in
 22 AS 38.05.125 until the state, its lessees, successors, or assigns make provision to pay
 23 the owner of the land full payment for all damages sustained by the owner, by reason
 24 of entering **onto** [UPON] the land. If the owner for any cause refuses or neglects to
 25 settle the damages, the state, its lessees, successors, assigns, or an applicant for a lease
 26 or contract from the state for the purpose of prospecting for valuable minerals, or
 27 option, contract, or lease for **carbon storage or** mining coal or **a** lease for extracting
 28 geothermal resources, petroleum, or natural gas, may enter **onto** [UPON] the land in
 29 the exercise of the reserved rights after posting a surety bond determined by the
 30 director, after notice and an opportunity to be heard, to be sufficient as to form,
 31 amount, and security to secure to the owner payment for damages, and may institute

1 legal proceedings in a court where the land is located, as may be necessary to
 2 determine the damages **that** [WHICH] the owner may suffer.

3 * **Sec. 10.** AS 38.05.135(a) is amended to read:

4 (a) Except as otherwise provided, valuable mineral deposits in land belonging
 5 to the state shall be open to exploration, development, and the extraction of minerals.
 6 All land, together with tide, submerged, or shoreland, to which the state holds title to
 7 or to which the state may become entitled, may be obtained by permit or lease for the
 8 purpose of exploration, development, and the extraction of minerals. Except as
 9 specifically limited by AS 38.05.131 - 38.05.181 **and 38.05.700 - 38.05.795**, land may
 10 be withheld from lease application on a first-come, first-served basis, and offered only
 11 on a competitive bid basis when determined by the commissioner to be in the best
 12 interests of the state.

13 * **Sec. 11.** AS 38.05.135(c) is amended to read:

14 (c) Payment of a royalty or a net profit share payment to the state under a lease
 15 issued under AS 38.05.135 - 38.05.181 **or an injection charge under AS 38.05.700 -**
 16 **38.05.795** becomes due on the date and in the manner specified in the lease or in a
 17 regulation adopted by the commissioner.

18 * **Sec. 12.** AS 38.05.135(d) is amended to read:

19 (d) If a royalty or net profit share payment to which the state is entitled under
 20 AS 38.05.135 - 38.05.181 **or an injection charge under AS 38.05.700 - 38.05.795** is
 21 not paid or is underpaid when it becomes due under (c) of this section, the unpaid
 22 amount of the royalty, [OR] net profit share payment, **or injection charge** bears
 23 interest in a calendar quarter at the rate of five percentage points above the annual rate
 24 charged member banks for advances by the 12th Federal Reserve District as of the
 25 first day of that calendar quarter, or at the annual rate of 11 percent, whichever is
 26 greater, compounded quarterly as of the last day of that quarter.

27 * **Sec. 13.** AS 38.05.135(e) is amended to read:

28 (e) If a royalty or net profit share payment to which the state is entitled under
 29 AS 38.05.135 - 38.05.181 **or an injection charge under AS 38.05.700 - 38.05.795** is
 30 overpaid, interest at the rate and compounded in the manner provided in (d) of this
 31 section shall be allowed and paid on the overpayment. The interest allowance is

1 subject to the following:

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

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

6 (i) due; or

7 (ii) received;

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

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

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

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

13 (A) from the date that is the later of the date the overpayment
14 was

15 (i) due; or

16 (ii) received;

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

18 * **Sec. 14.** AS 38.05.140(a) is amended to read:

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

29 * **Sec. 15.** AS 38.05.184 is amended by adding a new subsection to read:

30 (h) A department or other state agency may not issue a carbon storage license
31 or lease on state-owned land and water seaward of the mean higher high water line,

1 beginning at Anchor Point; then around the perimeter of Kachemak Bay, to Point
 2 Pogibshi; then west to the three mile limit of state land and water; then north to a point
 3 three miles west of Anchor Point; then east to the mean higher high water line of
 4 Anchor Point, the point of beginning.

5 * **Sec. 16.** AS 38.05 is amended by adding new sections to read:

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

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

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

12 (c) The commissioner shall establish in regulation minimum acceptable
 13 commercial terms for carbon storage exploration licenses and carbon storage leases,
 14 including license fees, rental payments, injection charges, other forms of
 15 compensation, and financial assurances. The commissioner shall review and update a
 16 regulation adopted under this subsection at least every five years.

17 **Sec. 38.05.705. Carbon storage exploration licensing.** (a) The commissioner
 18 may issue carbon storage exploration licenses on state land.

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

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

22 (2) the option to convert the license for all or part of the state land
 23 described in the license into a carbon storage lease after the licensee complies with the
 24 lease conversion process described in AS 38.05.715.

25 (c) A carbon storage exploration license must

26 (1) be conditioned on the posting of a bond or other security acceptable
 27 to the department and in favor of the state;

28 (2) be conditioned on an obligation by the licensee to fulfill a specified
 29 work commitment as set out in the license; the work commitment must include
 30 mandatory provisions for

31 (A) an annual fee paid by the licensee to the department in an

1 amount applicable to a carbon storage exploration license under regulations
2 adopted under AS 38.05.700(c), subject to the license; and

3 (B) an annual report describing the licensee's exploration
4 activities in the previous calendar year, which the licensee shall provide to the
5 department; and

6 (3) include proposed commercial terms that apply if the license is
7 converted into a carbon storage lease, which must, at a minimum, meet the
8 requirements of regulations adopted under AS 38.05.700(c).

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

12 (e) The department may renew a carbon storage exploration license for a term
13 sufficient to determine whether the licensee's permit application will be accepted
14 under AS 41.06.105 - 41.06.210 if the licensee

15 (1) before the expiration of the license, applies for a permit under
16 AS 41.06.120;

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

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

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

22 (f) A carbon storage exploration license that has been renewed under (e) of
23 this section terminates immediately if the Alaska Oil and Gas Conservation
24 Commission denies the licensee's permit application under AS 41.06.105 - 41.06.210.

25 **Sec. 38.05.710. License procedures.** (a) To apply for a carbon storage
26 exploration license under AS 38.05.705, an applicant shall submit to the commissioner
27 a proposal that

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

29 (2) proposes minimum work commitments;

30 (3) proposes commercial terms applicable to a carbon storage lease
31 under regulations adopted under AS 38.05.700(c);

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

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

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

7 (b) The commissioner shall publish notice of a proposal received under (a) of
8 this section. The notice must include a solicitation for competing proposals. The
9 commissioner shall send a copy of the published notice to each lessee under
10 AS 38.05.135 - 38.05.181 within one-half mile of the area proposed for the
11 exploration license. Any person may submit a competing proposal under the process
12 established by the commissioner in regulation. The regulations must require that a
13 competing proposal be submitted not later than 90 days after the commissioner's
14 notice is published.

15 (c) After the period for submission of competing proposals has passed, the
16 commissioner shall issue a written finding determining whether issuance of a carbon
17 storage exploration license is in the best interests of the state. If the commissioner
18 determines that issuance of a carbon storage exploration license is in the best interests
19 of the state, the finding must

20 (1) describe the limitations, stipulations, and conditions of the license
21 and any changes to the conditions detailed in the proposal submitted under (a) of this
22 section, or a competing proposal, that are required before issuance of the exploration
23 license;

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

26 (3) if there are competing proposals from multiple applicants, identify
27 which applicants are qualified for the issuance of the exploration license and include
28 information about the competitive bid process as set out in (e) of this section; and

29 (4) include a copy of the exploration license to be issued and the form
30 of lease that will be used for any portion of the exploration license area that is later
31 converted to a lease under AS 38.05.715.

1 (d) If the commissioner determines that issuance of a carbon storage
2 exploration license is in the best interests of the state and that only one applicant is
3 qualified for a license, the applicant may accept or reject the exploration license, as
4 limited or conditioned by the terms of the finding made under (c) of this section and in
5 the form of lease attached to the finding, not later than 30 days after the date the
6 finding was issued. The applicant shall accept or reject the issuance of the carbon
7 storage exploration license in writing. If an applicant fails to respond within 30 days
8 after the finding was issued, the commissioner shall consider the applicant's failure to
9 respond as a rejection of the license.

10 (e) If the commissioner determines that issuance of a carbon storage
11 exploration license is in the best interests of the state and that more than one applicant
12 is qualified for a license, the commissioner shall issue a request for competitive sealed
13 bids, under procedures adopted by regulation, to determine which qualified applicants
14 will receive a license. If the commissioner determines that a competitive bid process is
15 necessary, the best interest finding made under (c) of this section must include notice
16 that the commissioner intends to request competitive bids.

17 (f) The commissioner shall establish in regulation the criteria for the
18 assessment of competitive bids under (e) of this section and for the determination of a
19 successful bidder.

20 (g) If a lessee under AS 38.05.135 - 38.05.181 in the area covered by a
21 proposed carbon storage exploration license participates in a competitive bid process
22 under (e) of this section and is not the successful bidder, before issuing the license, the
23 commissioner shall provide the lessee an opportunity to match the successful bid. If
24 the lessee matches the successful bid, the commissioner shall issue a carbon storage
25 exploration license to the lessee.

26 (h) A carbon storage exploration license issued under this section and a carbon
27 storage lease under AS 38.05.715 or 38.05.720 must include

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

30 (2) a clause by which the licensee or lessee indemnifies the state for
31 any unreasonable interference the licensee or lessee might cause to the rights of a

1 lessee under AS 38.05.135 - 38.05.181.

2 (i) When notice is required under this section, the
3 department shall follow the requirements for notice under
4 AS 38.05.945(b) and (c).

5 **Sec. 38.05.715. Conversion to lease by licensee.** (a) The commissioner may
6 convert a carbon storage exploration license to a carbon storage lease if the licensee
7 complies with (b) of this section.

8 (b) To convert a carbon storage exploration license to a carbon storage lease, a
9 licensee shall provide to the commissioner a copy of the permit obtained under
10 AS 41.06.120. After receiving a copy of the permit, the commissioner may issue a
11 carbon storage lease for those areas of the exploration license approved for carbon
12 storage by the permit if the licensee has

13 (1) fulfilled the work commitments set out in the license;

14 (2) demonstrated the ability to meet the commercial terms for the lease
15 as set out in the license or in regulation.

16 (c) A 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 38.05.710(c);

19 (2) the agreements required under AS 38.05.710(h); and

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

22 **Sec. 38.05.720. Transition from enhanced oil recovery operations to**
23 **carbon storage operations.** (a) A lessee under AS 38.05.180 shall acquire a carbon
24 storage lease before engaging in carbon storage activity that is not associated with
25 enhanced oil or gas recovery.

26 (b) At the commissioner's discretion, the commissioner may issue a carbon
27 storage lease to a lessee under AS 38.05.180 if the lessee is in compliance with
28 regulations adopted under AS 41.06.185(b). 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) commercial terms acceptable to the department as required by
- 3 regulations adopted under AS 38.05.700(c);
- 4 (2) the agreements required under AS 38.05.710(h);
- 5 (3) any other condition or obligation the commissioner considers
- 6 necessary or that is required by regulation.
- 7 (d) Before a carbon storage lease issued under this section may be transferred
- 8 or assigned to an entity that is not the responsible party under the existing oil and gas
- 9 lease under AS 38.05.180, the assuming party must provide financial assurance
- 10 acceptable to the department that the obligations of the lease can be met.
- 11 (e) The department may adopt regulations that allow a lease issued under
- 12 AS 38.05.180 to be transitioned to a lease under this section upon the receipt of a
- 13 permit issued under AS 41.06.185.

14 **Sec. 38.05.725. Plan of development and operations; unitization.** (a) The

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

16 operation for a carbon storage lease.

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

18 rights of persons owning interest in the tracts of land affected, with the approval of the

19 commissioner, a group of lessees may validly integrate the lessees' interests to provide

20 for the unitized management, development, and operation of the tracts of land as a

21 unit. The commissioner may suspend or modify a development plan approved under

22 (a) of this section in accordance with the unit agreement. In this subsection, "unit

23 agreement" means an agreement by lessees with an interest in the unit, the state, and

24 any other carbon storage lessor with an interest in the unit.

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

26 under this section is excepted from determining holdings or control under

27 AS 38.05.140. The provisions of this section concerning cooperative or unit plans are

28 in addition to and do not affect AS 31.05 and AS 41.06.

29 **Sec. 38.05.730. Payments from carbon storage exploration licenses and**

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

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

1 the money it collects under AS 38.05.700 - 38.05.795.

2 **Sec. 38.05.795. Definitions.** In AS 38.05.700 - 38.05.795, unless the context
3 requires otherwise,

4 (1) "carbon storage" means the underground storage of carbon dioxide
5 in a carbon storage reservoir;

6 (2) "enhanced oil or gas recovery" has the meaning in AS 41.06.210;

7 (3) "reservoir" has the meaning given in AS 41.06.210.

8 * **Sec. 17.** AS 38.35.020(a) is amended to read:

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

22 * **Sec. 18.** AS 38.35.020(b) is amended to read:

23 (b) The commissioner may by regulation exempt from the requirement of a
24 right-of-way lease under this chapter the construction or operation of

25 (1) field gathering lines or any reasonable classification of field
26 gathering lines; and

27 (2) a pipeline transporting carbon dioxide within a field for the
28 purpose of an enhanced oil or gas recovery project under AS 41.06.185 or field
29 pressurization measures within that same field [THEM FROM THE
30 REQUIREMENT OF A RIGHT-OF-WAY LEASE UNDER THIS CHAPTER].

31 * **Sec. 19.** AS 38.35.122 is amended to read:

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

5 * **Sec. 20.** AS 38.35.230(3) is amended to read:

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

11 * **Sec. 21.** AS 38.35.230(7) is amended to read:

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

23 * **Sec. 22.** AS 38.35.230(10) is amended to read:

24 (10) "transportation" means the shipment or carriage by a pipeline of
 25 crude oil, natural gas, **carbon dioxide,** or products from an upstream terminus in one
 26 or more fields or points of production or supply of the minerals to a downstream
 27 terminus in one or more points for delivery of the minerals to a purchaser or
 28 consignee, for storage, or for further carriage or shipment, including shipment or
 29 carriage within the state that may be classified as interstate or foreign transportation to
 30 the extent that the transportation may constitutionally be subjected to the provisions of
 31 this chapter, as well as all services necessary to **carry out** [EFFECTUATE] shipment

1 or carriage, including [, AMONG OTHER THINGS,] the receipt, storage, processing,
2 handling, transfer in transit, forwarding, and delivery of the minerals.

3 * **Sec. 23.** AS 38.35.230 is amended by adding a new paragraph to read:

4 (11) "carbon dioxide" has the meaning given in AS 41.06.210.

5 * **Sec. 24.** AS 41.06.005 is amended to read:

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

9 (b) The Department of Natural Resources has jurisdiction under AS 41.06.005
10 - 41.06.060 [THIS CHAPTER] over management of geothermal leases and units in the
11 public interest and to effect development.

12 * **Sec. 25.** AS 41.06.020 is amended to read:

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

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

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

25 (2) the conservation of geothermal resources is accomplished under the
26 unit agreement.

27 (c) **The provisions of AS 41.06.005 - 41.06.060 apply** [THIS CHAPTER
28 APPLIES]

29 (1) to wells drilled in search of, in support of, or for the recovery or
30 production of geothermal resources;

31 (2) when a person engaged in drilling activity not otherwise subject to

1 the provisions of AS 41.06.005 - 41.06.060 [THIS CHAPTER] encounters geothermal
 2 resources, fluid, or water of sufficient heat or pressure to constitute a threat to human
 3 life or health unless the drilling operation is subject to oil and gas drilling regulation
 4 under AS 31.05;

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

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

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

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

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

17 * **Sec. 26.** AS 41.06.030(e) is amended to read:

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

22 * **Sec. 27.** AS 41.06.035(b) is amended to read:

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

29 * **Sec. 28.** 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. 29.** 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. 30.** 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. 31.** 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. 32.** 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 at which [WHERE] the highest-temperature resources
 29 encountered enter or contact a well or other resource extraction device or any
 30 commercial 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. 33.** AS 41.06 is amended by adding new sections to read:

29 **Article 2. Carbon Storage; Injection.**

30 **Sec. 41.06.105. Jurisdiction over storage facilities.** The commission has
 31 jurisdiction under AS 41.06.105 - 41.06.210 over storage facilities to prevent waste,

1 protect correlative rights, and ensure public health and safety.

2 **Sec. 41.06.110. Authority of the commission.** (a) The authority of the
3 commission applies to all land

4 (1) in the state lawfully subject to the police power of the state,
5 including private land, municipal land, state land, federal land, and land subject to the
6 jurisdiction of the United States; and

7 (2) included in a voluntary cooperative or unit plan of development or
8 operation entered into in accordance with AS 38.05.725.

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

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

13 (2) conservation of resources in the reservoir or pool is accomplished
14 in the agreement.

15 (c) The commission has the authority to

16 (1) regulate activities related to a storage facility, including the
17 construction, operation, and closure of the facility;

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

20 (3) enter, at a reasonable time and in a reasonable manner, a storage
21 facility to

22 (A) inspect equipment and facilities;

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

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

25 (4) exercise continuing jurisdiction over storage operators and storage
26 facilities, including the authority, after notice and hearing, to amend provisions in a
27 permit and to revoke a permit;

28 (5) dissolve or change the boundaries of an oil or gas field or unit
29 established by the commission that is within or near the boundaries of a storage
30 reservoir; and

31 (6) grant, for good cause, exceptions to AS 41.06.105 - 41.06.210.

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

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

6 **Sec. 41.06.115. Waste prohibited; investigation.** Waste in a storage facility
7 or storage reservoir in the state is prohibited. The commission may investigate to
8 determine whether waste exists or is imminent, or whether other facts exist that justify
9 or require action by the commission to prohibit waste. The injection of carbon dioxide
10 and substances commonly associated with carbon dioxide injection is not considered
11 waste.

12 **Sec. 41.06.120. Storage facility permit.** (a) A storage operator is required to
13 obtain a permit from the commission to operate a storage facility.

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

15 (c) A person applying for a permit shall

16 (1) request a preapplication meeting with the commission staff;

17 (2) comply with application requirements;

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

19 (4) pay the commission the cost the commission incurs in reviewing
20 the person's application, publishing notices for hearings, and holding hearings on the
21 person's permit application.

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

25 (e) The commission shall set the amount of the fee in (c)(3) of this section
26 based on the anticipated cost to the commission associated with processing
27 applications, including preliminary work in advance of receiving an application. The
28 commission may enter into an agreement with a prospective applicant that requires the
29 applicant to reimburse the commission for reasonable costs of work incurred in
30 preparing for activities before the commission receives an application.

31 (f) The commission shall deposit fees collected under this section in the

1 carbon dioxide storage facility administrative fund established in AS 41.06.160.

2 **Sec. 41.06.125. Hearing on permit application.** (a) Before issuing a permit
3 for a storage facility, the commission shall hold a public hearing.

4 (b) The commission shall provide notice of a public hearing under this section.
5 The commission shall provide notice in the same manner as a notice under
6 AS 31.05.050(b) and shall provide notice to

7 (1) each mineral lessee, mineral owner, and mineral right owner of
8 record within the storage reservoir and within one-half mile of the boundaries of the
9 storage reservoir;

10 (2) each surface owner of land overlying the storage reservoir and
11 within one-half mile of the boundaries of the storage reservoir; and

12 (3) any additional persons that the commission considers necessary.

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

15 **Sec. 41.06.130. Permit requirements.** (a) The commission shall consult with
16 the Department of Environmental Conservation and the Department of Natural
17 Resources before issuing a permit under AS 41.06.120.

18 (b) Before the commission may approve a permit application submitted under
19 AS 41.06.120, the commission must find

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

22 (2) that the proposed storage facility is suitable and feasible for carbon
23 storage;

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

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

29 (5) if the proposed storage facility contains commercially valuable
30 minerals, that the interests of the mineral owners or mineral lessees will not be
31 adversely affected or have been addressed in an arrangement entered into by the

1 mineral owners or mineral lessees and the storage operator;

2 (6) that the proposed storage facility will not adversely affect surface
3 water or formations containing fresh water;

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

6 (8) that substances that compromise the objectives of AS 41.06.105 -
7 41.06.210 or the integrity of a storage reservoir will not enter a storage reservoir;

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

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

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

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

18 (13) that all nonconsenting landowners or holders of mineral rights are,
19 or will be, equitably compensated; and

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

22 **Sec. 41.06.135. Permit provisions.** The commission may include in a permit
23 or order any parameters necessary to carry out the objectives of AS 41.06.105 -
24 41.06.210, prevent waste, protect correlative rights, and ensure the health and safety of
25 persons affected by the permit.

26 **Sec. 41.06.140. Amalgamating property interests.** If a storage operator does
27 not obtain the consent of all persons with an ownership interest in the storage
28 reservoir, the commission may order that the mineral rights of nonconsenting owners
29 be included in a storage facility and subject to carbon storage. Before the commission
30 may issue an order forming an amalgamation under this section, the commission shall
31 provide public notice and hold a hearing.

1 **Sec. 41.06.145. Certificate.** When the commission issues a permit under
 2 AS 41.06.120, the commission shall also issue a certificate that states that the permit
 3 has been issued, describes the area covered, and contains other information the
 4 commission considers appropriate. The storage operator may file a copy of the
 5 certificate with the office of the recorder in the district in which the storage facility is
 6 located.

7 **Sec. 41.06.150. Environmental protection; storage reservoir integrity.** (a)
 8 The commission shall take action to ensure that

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

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

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

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

17 **Sec. 41.06.155. Preservation of rights.** Nothing in AS 41.06.105 - 41.06.210

18 (1) prejudices the rights of a person with a property interest in a
 19 storage facility to exercise rights that have not been committed to the storage facility;
 20 or

21 (2) prevents a mineral owner or mineral lessee from drilling through or
 22 near a storage reservoir to explore for and develop minerals if the drilling, production,
 23 and related activities comply with requirements set by the commission to preserve the
 24 integrity of the storage facility and protect the objectives of AS 41.06.105 - 41.06.210.

25 **Sec. 41.06.160. Fees; carbon dioxide storage facility administrative fund.**

26 (a) A storage operator shall pay to the commission a fee on each metric ton of carbon
 27 dioxide injected for carbon storage. The commission shall set the amount of the fee
 28 based on the anticipated expenses the commission will incur in regulating storage
 29 facilities during each phase, including the construction, operational, and pre-closure
 30 phases. The commission shall deposit a fee collected under this subsection in the
 31 carbon dioxide storage facility administrative fund established in (b) of this section.

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

- 3 (1) fees received under (a) of this section;
- 4 (2) fees received under AS 41.06.120 and 41.06.195; and
- 5 (3) interest earned on money in the fund.

6 (c) Money in the carbon dioxide storage facility administrative fund shall be
7 separately accounted for under AS 37.05.142. The legislature may appropriate the
8 money in the fund to the commission to carry out the purposes of AS 41.06.105 -
9 41.06.210.

10 **Sec. 41.06.165. Title to carbon dioxide.** The storage operator has title to the
11 carbon dioxide injected into and stored in a storage reservoir and holds title until the
12 commission issues a certificate of completion under AS 41.06.170. While the storage
13 operator holds title, the operator is liable for any damage the carbon dioxide may
14 cause, including damage caused by carbon dioxide that escapes from the storage
15 facility.

16 **Sec. 41.06.170. Certificate of completion; release; transfer of title and**
17 **custody.** (a) Once a storage operator discontinues carbon dioxide injections into a
18 storage reservoir, and upon application by the storage operator, the commission may
19 issue a certificate of completion

20 (1) only after public notice and hearing; the commission shall establish
21 notice requirements for a hearing under this paragraph;

22 (2) only after the commission consults with the Department of
23 Environmental Conservation, the Department of Natural Resources, and all persons
24 with an ownership interest in the storage reservoir; and

25 (3) after a period of at least 10 years have elapsed since the last carbon
26 dioxide injection into the storage reservoir.

27 (b) The commission may issue a certificate of completion only if the storage
28 operator

29 (1) is in full compliance with all laws governing the storage facility;

30 (2) shows that the operator has addressed all pending claims regarding
31 the operation of the storage facility;

1 (3) shows that the underground place or pore space in which the
2 injected carbon dioxide is stored is not expected to pose a threat to human health,
3 human safety, the environment, or underground sources of drinking water;

4 (4) shows that the stored or injected carbon dioxide is unlikely to cross
5 an underground or pore space boundary and is not expected to endanger an
6 underground source of drinking water or otherwise endanger human health, human
7 safety, or the environment;

8 (5) shows that all wells, equipment, and facilities to be used in the
9 post-closure period are in good condition and retain mechanical integrity;

10 (6) shows that the operator has plugged wells, removed equipment and
11 facilities, and completed reclamation work as required by the commission and the
12 Department of Natural Resources;

13 (7) has paid all fees and surcharges owed for the storage facility; and

14 (8) meets any other regulatory requirements established by the state.

15 (c) Once a certificate of completion is issued, title to the storage facility and to
16 the stored carbon dioxide transfers, without payment of compensation, to the state
17 under management of the Department of Natural Resources. Title acquired by the state
18 includes all rights and interests in, and all responsibilities associated with, the stored
19 carbon dioxide. The storage operator and all persons who generated injected carbon
20 dioxide are released from liability to the state associated with the storage facility
21 unless the liability to the state results in the payment of damages in excess of the
22 balance of the carbon storage closure trust fund established in AS 37.14.850. A bond
23 posted by the storage operator must be released.

24 **Sec. 41.06.175. Carbon storage facility injection surcharge.** A storage
25 operator shall pay to the commission a surcharge on each metric ton of carbon dioxide
26 injected for carbon storage. The commission shall set the amount of the surcharge
27 based on the anticipated expenses the state will incur in regulating storage facilities
28 during the post-closure phase. The commission shall deposit the surcharge in the
29 carbon storage closure trust fund established in AS 37.14.850.

30 **Sec. 41.06.180. Penalties.** (a) In addition to the penalties in (b) - (d) of this
31 section, a person who violates a provision of AS 41.06.105 - 41.06.210, a regulation

1 adopted under AS 41.06.105 - 41.06.210, or an order or term of a permit issued by the
2 commission under AS 41.06.105 - 41.06.210 is liable for a civil penalty of not more
3 than \$100,000 for the initial violation and not more than \$10,000 for each day
4 thereafter on which the violation continues.

5 (b) A person who knowingly commits an act specified in AS 11.46.630(a) for
6 the purpose of evading a provision of AS 41.06.105 - 41.06.210, a regulation adopted
7 under AS 41.06.105 - 41.06.210, or an order, stipulation, or term of a permit issued by
8 the commission is guilty of a class A misdemeanor.

9 (c) A person who knowingly violates a provision of AS 41.06.105 - 41.06.210,
10 a regulation adopted under AS 41.06.105 - 41.06.210, or an order, stipulation, or term
11 of a permit issued by the commission is guilty of a class A misdemeanor punishable
12 by a fine of not more than \$10,000 a day for each day of violation.

13 (d) A person who knowingly aids or abets another person in the violation of a
14 provision of AS 41.06.105 - 41.06.210, a regulation adopted under AS 41.06.105 -
15 41.06.210, or an order, stipulation, or term of a permit issued by the commission is
16 subject to the same penalty as that prescribed in this section for the violation by the
17 other person.

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

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

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

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

29 (3) the extent and seriousness of the violation and the actual or
30 potential threat to public health or the environment;

31 (4) the economic or environmental harm or injury to the public caused

1 by the violation;

2 (5) the economic value or other benefits derived by the person
3 committing the violation from the commission of the violation;

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

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

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

10 (9) other matters justice requires.

11 **Sec. 41.06.185. Enhanced oil or gas recovery.** (a) Except as provided in (b)
12 of this section, the provisions of AS 41.06.105 - 41.06.210 do not apply to
13 applications filed with the commission proposing to use carbon dioxide for enhanced
14 oil or gas recovery.

15 (b) The commission may adopt regulations that allow enhanced oil or gas
16 recovery and related well activities to be converted to a storage facility. The
17 regulations must require that, in considering whether to approve a conversion, and
18 upon conversion, the provisions of AS 41.06.105 - 41.06.210 apply. The regulations
19 may impose additional requirements to AS 41.06.105 - 41.06.210, or describe specific
20 situations in which the requirements of AS 41.06.105 - 41.06.210 are waived, to
21 ensure that the objectives of AS 41.06.105 - 41.06.210 are met.

22 **Sec. 41.06.190. Cooperative agreements and contracts.** (a) The commission
23 may enter into agreements with other governments, government entities, and state
24 agencies for the purpose of carrying out the objectives of AS 41.06.105 - 41.06.210.

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

29 **Sec. 41.06.195. Determining capacity of storage reservoir; carbon credits;
30 fees.** (a) The commission may adopt a written policy establishing procedures and
31 criteria that the commission will use to determine the carbon storage capacity of a

1 storage reservoir, including for the purpose of enhanced oil or gas recovery.

2 (b) The purpose of determining the carbon storage capacity of a storage
3 reservoir is to facilitate calculating the amount of stored carbon dioxide for matters
4 including carbon credits, allowances, trading, emissions allocations, and offsets. The
5 commission may charge a reasonable fee to a person requesting a capacity
6 determination. The commission shall set the fee by regulation. The commission shall
7 deposit fees received under this subsection in the carbon dioxide storage facility
8 administrative fund established in AS 41.06.160.

9 (c) In this section, "carbon storage capacity of a storage reservoir" means the
10 maximum injected volume in a storage reservoir at which the pressure in the reservoir
11 does not pose a risk to the integrity of the reservoir or its ability to maintain carbon
12 storage.

13 **Sec. 41.06.210. Definitions.** In AS 41.06.105 - 41.06.210, unless the context
14 requires otherwise,

15 (1) "carbon dioxide" means carbon dioxide of a quality that will not
16 compromise

17 (A) the safety of carbon storage; and

18 (B) the properties of a storage reservoir that allow the reservoir
19 to effectively enclose and contain a stored gas or stored supercritical fluid;

20 (2) "carbon storage" means the underground storage of carbon dioxide
21 in a storage reservoir;

22 (3) "commission" means the Alaska Oil and Gas Conservation
23 Commission created under AS 31.05.005;

24 (4) "enhanced oil or gas recovery" means the increased recovery of
25 hydrocarbons, including oil and gas, from a common source of supply achieved by
26 artificial means or by the application of energy extrinsic to the common source of
27 supply, including pressuring, cycling, pressure maintenance or injection of a substance
28 or form of energy, including injection of water, gas, carbon dioxide, or both gas and
29 carbon dioxide, including immiscible and miscible floods, as long as the enhanced oil
30 or gas recovery does not include injection of a substance or form of energy for the sole
31 purpose of

1 (A) aiding in the lifting of fluids in the well; or

2 (B) stimulation of the reservoir at or near the well by
3 mechanical, chemical, thermal, or explosive means;

4 (5) "permit" means a storage facility permit issued under
5 AS 41.06.120;

6 (6) "pore space" means a cavity or void in a subsurface sedimentary
7 stratum;

8 (7) "reservoir" means a subsurface sedimentary stratum, formation,
9 aquifer, cavity, or void, including pore space, oil and gas reservoirs, saline formations,
10 and coal seams that are suitable, or capable of being made suitable, for injection and
11 carbon storage;

12 (8) "storage facility" means the storage reservoir, underground
13 equipment, well, and surface facilities and equipment used in accordance with a
14 permit; "storage facility" does not include pipelines, compressors, surface facilities,
15 and equipment used to transport carbon dioxide to the storage facility that are
16 unrelated to well safety and metering;

17 (9) "storage operator" means a person holding or applying for a permit;

18 (10) "storage reservoir" means a reservoir proposed, authorized, or
19 used for carbon storage;

20 (11) "supercritical fluid" means a substance at or above its critical
21 temperature and critical pressure that is neither a liquid nor a gas but that has
22 properties of both;

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

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

28 * **Sec. 34.** AS 41.21.167(a) is amended to read:

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

31 * **Sec. 35.** AS 41.21.491(d) is amended to read:

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

5 * **Sec. 36.** AS 41.21.502(c) is amended to read:

6 (c) The mineral estate in the state-owned land and water described in (a) of
 7 this section is open to oil and gas leasing under AS 38.05.180 **and carbon storage**
 8 **licensing and leasing under AS 38.05.700 - 38.05.795**. The mineral estate in the
 9 state-owned land and water described in (a) of this section is closed to mineral entry
 10 under AS 38.05.181 - 38.05.275.

11 * **Sec. 37.** AS 41.21.617 is amended to read:

12 **Sec. 41.21.617. Other uses generally.** The state land and water described in
 13 AS 41.21.611(b) is closed to mineral entry under AS 38.05.135 - 38.05.275 **and**
 14 **38.05.700 - 38.05.795**, to commercial harvest of timber, and to sale under state land
 15 disposal laws. The commissioner may lease the land described in AS 41.21.611(b)
 16 under AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.21.610(a) and
 17 (b). A municipality may select land within the Alaska Chilkat Bald Eagle Preserve
 18 under law.

19 * **Sec. 38.** AS 43.20.036 is amended by adding a new subsection to read:

20 (k) For purposes of calculating the income tax payable under this chapter, the
 21 taxpayer may not apply as a credit against tax liability the carbon oxide sequestration
 22 credit allowed as to federal taxes under 26 U.S.C. 45Q (Internal Revenue Code).

23 * **Sec. 39.** AS 44.37.020 is amended by adding a new subsection to read:

24 (d) The Department of Natural Resources shall administer storage facilities
 25 and stored carbon transferred to the state under AS 41.06.170.

26 * **Sec. 40.** AS 46.03.020 is amended to read:

27 **Sec. 46.03.020. Powers of the department.** The department may

- 28 (1) enter into contracts and compliance agreements necessary or
 29 convenient to carry out the functions, powers, and duties of the department;
 30 (2) review and appraise programs and activities of state departments
 31 and agencies in light of the policy set out in AS 46.03.010 for the purpose of

1 determining the extent to which the programs and activities are contributing to the
2 achievement of that policy and to make recommendations to the departments and
3 agencies, including environmental guidelines;

4 (3) consult with and cooperate with

5 (A) officials and representatives of any nonprofit corporation or
6 organization in the state;

7 (B) persons, organizations, and groups, public and private,
8 using, served by, interested in, or concerned with the environment of the state;

9 (4) appear and participate in proceedings before any state or federal
10 regulatory agency involving or affecting the purposes of the department;

11 (5) undertake studies, inquiries, surveys, or analyses it may consider
12 essential to the accomplishment of the purposes of the department; these activities
13 may be carried out by the personnel of the department or in cooperation with public or
14 private agencies, including educational, civic, and research organizations, colleges,
15 universities, institutes, and foundations;

16 (6) at reasonable times, enter and inspect with the consent of the owner
17 or occupier any property or premises to investigate either actual or suspected sources
18 of pollution or contamination or to ascertain compliance or noncompliance with a
19 regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating
20 to secret processes or methods of manufacture discovered during investigation is
21 confidential;

22 (7) conduct investigations and hold hearings and compel the
23 attendance of witnesses and the production of accounts, books, and documents by the
24 issuance of a subpoena;

25 (8) advise and cooperate with municipal, regional, and other local
26 agencies and officials in the state, to carry out the purposes of this chapter;

27 (9) act as the official agency of the state in all matters affecting the
28 purposes of the department under federal laws now or hereafter enacted;

29 (10) adopt regulations necessary to carry out the purposes of this
30 chapter, including regulations providing for

31 (A) control, prevention, and abatement of air, water, or land or

1 subsurface land pollution;

2 (B) safeguard standards for carbon dioxide, petroleum, and
3 natural gas pipeline construction, operation, modification, or alteration;

4 (C) protection of public water supplies by establishing
5 minimum drinking water standards, and standards for the construction,
6 improvement, and maintenance of public water supply systems;

7 (D) collection and disposal of sewage and industrial waste;

8 (E) collection and disposal of garbage, refuse, and other
9 discarded solid materials from industrial, commercial, agricultural, and
10 community activities or operations;

11 (F) control of pesticides;

12 (G) other purposes as may be required for the implementation
13 of the policy declared in AS 46.03.010;

14 (H) handling, transportation, treatment, storage, and disposal of
15 hazardous wastes;

16 (11) inspect the premises of sellers and suppliers of paint, vessels, and
17 marine and boating supplies, and take other actions necessary to enforce
18 AS 46.03.715;

19 (12) notwithstanding any other provision of law, take all actions
20 necessary to receive authorization from the administrator of the United States
21 Environmental Protection Agency to administer and enforce a National Pollutant
22 Discharge Elimination System program in accordance with 33 U.S.C. 1342 (sec. 402,
23 Clean Water Act), 33 U.S.C. 1345 (sec. 405, Clean Water Act), 40 C.F.R. Part 123,
24 and 40 C.F.R. Part 403, as amended;

25 (13) require the owner or operator of a facility to undertake
26 monitoring, sampling, and reporting activities described in 33 U.S.C. 1318 (sec. 308,
27 Clean Water Act);

28 (14) notwithstanding any other provision of law, take all actions
29 necessary to receive federal authorization of a state program for the department and
30 the Department of Natural Resources to administer and enforce a dredge and fill
31 permitting program allowed under 33 U.S.C. 1344 (sec. 404, Clean Water Act) and to

1 implement the program, if authorized.

2 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

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

9 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

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

14 * **Sec. 43.** Section 41 of this Act takes effect immediately under AS 01.10.070(c).