



## Sectional Analysis

### CS House Bill 50 (FIN) – Carbon Storage (33-GH1567\D)

**Section 1:** The short title for this act is the “Carbon Capture, Utilization, and Storage Act.”

*Sections 2 - 4 amend the Alaska Oil and Gas Conservation Act (AS 31.05)*

**Section 2:** Amends AS 31.05.027 to expand the regulatory authority of the Alaska Oil and Gas Conservation Commission (AOGCC) to include land included in a voluntary cooperative, unit plan of development, or operation entered into in accordance with proposed AS 38.05.725 (see Section 15).

**Section 3:** Amends AS 31.05.030(m) to conform to the changes in the organization of AS 41.06, the amendment clarifies the portion of the chapter relating to geothermal resources which are unchanged in substance in the bill.

**Section 4:** Amends AS 37.05.146(c), which names funds accounted for separately and not receiving unrestricted general fund appropriations, to add a reference to the carbon dioxide storage facility administrative fund (AS 41.06.160, Section 32 of the bill) and the carbon storage closure trust fund (AS 37.14.850, Section 5 of the bill).

*Section 5 creates a carbon storage closure trust fund in AS 37.14*

**Section 5:** Adds a new section AS 37.14.850 to create a “Carbon Storage Closure Trust Fund,” established as a separate fund outside the general fund. The fund consists of payments received from the carbon storage facility injection surcharge (AS 41.06.175, Section 32 of the bill). It is not a dedicated fund and money in the fund does not lapse.

*Sections 6–15 Amend the Alaska Land Act (AS 38.05)*

**Section 6:** Amends AS 38.05.069(e), adding carbon storage under AS 38.05.700–795 (see Section 16) to the list of mineral disposals that may take place on lands where the surface is classified as agricultural.

**Section 7:** Amends AS 38.05.070(a) to exempt carbon storage leasing from the application of AS 38.05.070–105, the generalized state non-extractive land leasing provisions.

**Section 8:** Amends AS 38.05.130 to include carbon storage in requirements for liability of lessees to pay damages to landowners, post bond for that purpose, and provision for lessees to access the state mineral estate if a surface owner refuses to engage in a surface use agreement. This is the same statutory process that exists for other mineral estate development.

*Sections 09 – 14 amend portions of the Alaska Land Act article related to Oil and Gas Leasing and Licensing*

**Section 9:** Amends AS 38.05.135(a) to include the proposed Article 15A Carbon Storage Exploration Licenses; Leases (see Section 15) in requirements and limitations for the State’s mineral estate leasing and development.

**Section 10:** Amends AS 38.05.135(c) to include carbon storage injection charges (see Section 15), defining when they are due.

**Section 11:** Amends AS 38.05.135(d) to include provision for interest on late payments of injection charges under the proposed Article 15A Carbon Storage Exploration Licenses; Leases (see Section 15).

**Section 12:** Amends AS 38.05.135(e) to include provision for interest on overpayments of injection charges under the proposed Article 15A Carbon Storage Exploration Licenses; Leases (see Section 15).

**Section 13:** Amends AS 38.05.140(a) to include carbon storage leasing and licensing to the coal withdrawal exceptions applied to coal bed methane leasing or gas-only leasing under AS 38.05.180(ff) and (gg).

**Section 14:** Amends AS 38.05.184 by adding a new subsection (h) to prohibit carbon storage licenses or leases from being issued in the Kachemak Bay oil and gas closure area.

**Section 15:** Adds a new Article 15A subsections AS 38.05.700–795 under the title “Carbon Storage Exploration Licenses; Leases.”

1. **AS 38.05.700. Applicability; regulations:** Provision for applicability carbon storage statutes and authority for DNR to adopt regulations to implement these statutes. Also requires the commissioner to establish minimum commercial terms in regulation.
2. **AS 38.05.705: Carbon storage exploration licensing.** Allows the commissioner to issue carbon storage exploration licenses on state land and the licenses must include work commitment obligations, security requirements, and proposed commercial terms if the license is converted to a lease.. Also, provides for when a license may be renewed or terminated.
3. **AS 38.05.710: License procedures.** Procedures for issuance of an AS 38.05.705 carbon storage exploration license. These are modeled after existing procedures for oil and gas exploration licensing under [AS 38.05.133](#).
4. **AS 38.05.715: Conversion to lease by licensee.** This provision allows for the conversion of an AS 38.05.705 carbon storage exploration license to a carbon storage lease.
5. **AS 38.05.720: Transition from enhanced oil recovery operations to carbon storage operations.** Provision for an oil and gas lessee who must acquire a carbon storage lease

before converting from enhanced oil or gas recovery operations to carbon storage activity.

6. **AS 38.05.725: Plan of development and operations; unitization.** Requirements for plans of development and operations, and provision for unitization, similar to oil and gas leasing.
7. **AS 38.05.730: Payments from carbon storage exploration licenses and carbon storage leases.** Payments from carbon storage licenses and leases are to be deposited in the general fund except for the amount allocated to the Permanent Fund under art. IX, sec. 15, of the Alaska Constitution.
8. **AS 38.05.735: Annual report to the legislature.** Provides for an annual report from DNR to the legislature on carbon storage licenses and leases, as well as the carbon storage closure trust fund.
9. **AS 38.05.795: Definitions.** Definitions are added for specific terms used in the proposed Article 15A Carbon Storage Exploration Licenses; Leases.

*Sections 16–22 apply to the State Pipeline Coordinator’s authority under the AS 38.35 Right of Way Leasing Act.*

**Section 16:** Amends AS 38.35.020(a) to include carbon dioxide and carbon storage in the authority for right-of-way leasing.

**Section 17:** Amends AS 38.05.020(b), which allows the commissioner of DNR to exempt the construction or operation of field gathering lines and carbon dioxide pipelines from the requirement of a right-of-way lease under AS 38.35. The section allows the commissioner to exempt the construction or operation of a pipeline transporting carbon dioxide within a field for the purpose of an enhanced oil recovery project or field pressurization measure within that same field from the requirement of a right-of-way lease under AS 38.35. The pipelines would still be regulated by DNR under operations permits.

**Section 18:** Amends the title of AS 38.35.122 to read “Products pipeline *and carbon dioxide transportation pipeline* leases.” It grants the commissioner of DNR the discretion to include any or all the terms of AS 38.35.120 for carbon dioxide transportation pipeline right-of-way purposes. AS 38.35.120 contains covenants required to be included in a lease for a pipeline that is not a natural gas pipeline contract carrier.

*Sections 19–22 amend or add definitions to AS 38.35.230 which contain definitions applicable to AS 38.35.*

**Section 19:** Amends the definition of “lease” in AS 38.35.230(3) to include a reference to a pipeline transporting carbon dioxide for AS 38.35 leases.

**Section 20:** Amends the definition of “pipeline” or “pipeline facility” in AS 38.35.230(7) to include the transportation of carbon dioxide.

**Section 21:** Amends the definition of “transportation” in AS 38.35.230(10) to include a pipeline carrying carbon dioxide.

**Section 22:** Adds as a new subsection to define “carbon dioxide” as the meaning given in AS 41.06.210 (see Section 32).

*Sections 23–36 apply to AOGCC statutes under Title 41.*

Sections 23–31 are conforming amendments to AS 41.06.005–060, geothermal resource statutes, to remove existing reference to “this chapter” to include just the span of statutes related to geothermal resources due to the addition of a new article to the chapter. The substance of geothermal provisions are unchanged.

**Section 23:** Conforming change. Amends AS 41.06.005 regarding AOGCC and DNR’s jurisdiction over the management of geothermal resources to clarify applicability to geothermal statutes (AS 41.06.005–060).

**Section 24:** Conforming change. Amends AS 41.06.020 to clarify applicability to geothermal statutes (AS 41.06.005–060) regarding the authority of AOGCC over geothermal resources.

**Section 25:** Conforming change. Amends AS 41.06.030(e) to clarify AOGCC's authority to adopt regulations regarding maximum economic recovery of geothermal resources (AS 41.06.005–060).

**Section 26:** Conforming change. Amends AS 41.06.035(b) to clarify applicability to geothermal statutes (AS 41.06.005–060) regarding the authority of AOGCC to adopt regulations and issue orders regarding the establishment of drilling units for pools and orders regarding unitized operation and integration of interests.

**Section 27:** Conforming change. Amends AS 41.06.040(a) to clarify applicability to geothermal statutes (AS 41.06.005–060) regarding directing the AOGCC to adopt regulations regarding geothermal statutes.

**Section 28:** Conforming change. Amends AS 41.06.050(e) to clarify applicability to geothermal statutes (AS 41.06.005–060) regarding AOGCC issuing permits to drill for geothermal resources.

**Section 29:** Conforming change. Amends AS 41.06.055(c) to clarify that the geothermal well regulatory cost charges only apply under geothermal statutes (AS 41.06.005–060).

**Section 30:** Conforming change. Amends AS 41.06.055(d) to specify revenue collected for operating costs under geothermal statutes (AS 41.06.005–060) are to be identified and lapse into the general fund each year.

**Section 31:** Conforming change. Amends AS 41.06.060 to reflect definitions apply to geothermal statutes (AS 41.06.005–060).

**Section 32:** Adds new articles to AS 41.06, titled “Article 2. Carbon Dioxide Injection and Storage,” beginning at AS 41.06.105, and “Article 3. Long-Term Monitoring and Maintenance of Carbon Storage Facilities” beginning at AS 41.06.305:

1. **AS 41.06.105: Jurisdiction over storage facilities.** Provides that the AOGCC has jurisdiction over carbon dioxide storage facilities to prevent waste, protect correlative rights, and ensure public health and safety. The term “waste” is defined in AS 41.06.210.
2. **AS 41.06.110: Authority of the commission.** Concerns AOGCC's authority to carry out the purposes and intent of AS 41.06.105–210. Subsection (a) contains an expansive statement of AOGCC's jurisdiction over persons and property necessary to carry out the purposes and intent of AS 41.06.105–210. Subsection (b) provides that the operation of AS 41.06.105–210 may be suspended pursuant to a unit agreement if unit operations are regulated by the United States and the agreement accomplishes “conservation of resources.” Subsection (c) contains a list of specific regulatory authorities held by AOGCC. Subsection (d) provides that the provisions of AS 31.05 apply to wells drilled in search of, in support of, and for carbon dioxide storage, except in the event of a conflict with AS 41.06.105–210. Subsection (e) provides that nothing in AS 41.06.105–210 limits the authority of DNR over (1) carbon storage exploration licensing or leasing; or (2) approval and management of carbon storage units or operations that include state land. These are similar to AOGCC’s existing authorities for oil, gas, and geothermal.
3. **AS 41.06.115: Waste prohibited; investigation.** Provides that waste is prohibited in a carbon storage facility or reservoir. It also grants the AOGCC the authority to investigate whether waste exists or is imminent, or whether facts exist that justify action to prohibit waste. The section contains a statement that the injection of carbon dioxide and “substances commonly associated with carbon dioxide injection” is not waste.
4. **AS 41.06.120: Storage facility permit.** Provides specifications for storage facility permitting.
5. **AS 41.06.125: Hearing on permit application.** Creates a public hearing requirement for storage facility permits issued by AOGCC.
6. **AS 41.06.130: Permit requirements.** Specifies the requirements for carbon storage facility permits.
7. **AS 41.06.135: Permit provisions.** Allows the AOGCC to include parameters, limitations, or restrictions in a permit and to protect and adjust the rights and obligations of persons affected by storage permits.

8. **AS 41.06.140: Amalgamating property interests.** Concerns amalgamation of property interests in pore space and forced pooling for storage facilities.
9. **AS 41.06.145: Certificate.** Creates specifications for a carbon storage facility certificate upon issuance of a facility permit.
10. **AS 41.06.150: Environmental protection; storage reservoir integrity.** Creates requirements for AOGCC to ensure environmental protection and reservoir integrity in storage facilities and reservoirs and specifies that AOGCC's authority does not limit the Alaska Department of Environmental Conservation (DEC) jurisdiction.
11. **AS 41.06.155: Preservation of rights.** Clarifies preservation of rights, including deconfliction of development of other minerals by drilling through or near a storage reservoir.
12. **AS 41.06.160: Fees; carbon dioxide storage facility administrative fund.** Provides authority for AOGCC to collect fees and creation of a "carbon dioxide storage facility administrative fund" under the general fund.
13. **AS 41.06.165: Title to carbon dioxide.** Specifies that storage operators hold title to injected carbon dioxide until a certificate is issued under AS 41.06.170, including liability for damage associated with injected carbon dioxide.
14. **AS 41.06.170: Certificate of completion.** Specifies criteria for a certificate of completion following the end of CO<sub>2</sub> injections, including provisions for dismantlement, removal, and restoration of storage facility sites, and allows for DNR authority for long-term monitoring while limiting State liability for closed storage facilities.
15. **AS 41.06.175: Carbon storage facility injection surcharge.** Provides authority for AOGCC to collect a "carbon storage facility injection surcharge" for post-closure administration to be subject to appropriation deposited in the "carbon storage closure trust fund" established in AS 37.14.850 and provides for a formula for the surcharge.
16. **AS 41.06.180: Penalties.** Provision for AOGCC to impose civil penalties for violations of its carbon storage statutes under AS 41.06.
17. **AS 41.06.185: Enhanced oil or gas recovery.** Exclusion of AOGCC's carbon storage statutes from enhanced oil recovery (EOR), except for when an EOR-related reservoir is converted to a storage reservoir.
18. **AS 41.06.190: Cooperative agreements and contracts.** Authority for AOGCC to enter into agreements with other government entities and agencies for carbon storage purposes.

**19. AS 41.06.195: Determining capacity of storage reservoir; carbon credits; fees.**

Authority for AOGCC to determine amounts for injection and storage, including EOR. The AOGCC may charge a fee for this benefit.

**20. AS 41.06.210: Definitions for terms used in AOGCC's carbon storage statutes.**

**21. AS 41.06.305: Long-term monitoring and maintenance.** Grants authority to DNR to conduct long-term monitoring and maintenance of closed storage facilities using funds available from the carbon storage closure trust fund.

*Sections 33–36 are conforming amendments to parks and recreational facilities laws (AS 41.21)*

**Section 33:** Amends AS 41.21.167(a) to close the Wood-Tikchik State Park to carbon storage under AS 38.05.700–795 in addition to mineral entry.

**Section 34:** Amends AS 41.21.491(d) to include carbon storage licensing and leasing under AS 38.05.700–795 in the exception from the mineral estate closure within Willow Creek State Recreation Area described in AS 41.21.491(a).

**Section 35:** Amends AS 41.21.502(c) to allow the Kenai River Special Management Area to be open to carbon storage licensing and leasing under AS 38.05.700–795 in addition to oil and gas leasing under AS 38.05.180 but still prohibit mineral entry under AS 38.05.181–275.

**Section 36:** Amends AS 41.21.617 to close land within Alaska Chilkat Bald Eagle Preserve to carbon storage under AS 38.05.700–795.

**Section 37:** Amends AS 43.20.036 to add a subsection (k) prohibiting 45Q tax credits from being applied against state income tax for corporate taxpayers.

**Section 38:** Amends AS 46.03.020 to provide the DEC authority under Title 46 to adopt regulations for establishing safeguard standards for carbon dioxide pipelines.

**Section 39:** Provides for DNR, DOR, and AOGCC to adopt regulations to implement carbon storage under AS 44.62.

**Section 40:** Requests a title change for AS 41.06 from “Geothermal Resources” to “Geothermal and Carbon Storage.”

**Section 41:** Section 39 takes effect immediately.