

SENATE CS FOR CS FOR HOUSE BILL NO. 50(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:

Referred:

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 deposits into the permanent
3 fund; establishing the carbon storage closure trust fund and carbon dioxide storage
4 facility administrative fund; relating to carbon storage exploration licenses; relating to
5 carbon storage leases; relating to carbon storage operator permits; relating to enhanced
6 oil or gas recovery; relating to long-term monitoring and maintenance of storage
7 facilities; relating to carbon oxide sequestration tax credits; requiring the Department of
8 Natural Resources to make Cook Inlet seismic survey data available to certain persons;
9 relating to records of the Regulatory Commission of Alaska; relating to regulation of
10 liquefied natural gas import facilities; relating to the duties of the Department of
11 Natural Resources; relating to carbon dioxide pipelines; and providing for an effective
12 date."

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

4 **SHORT TITLE.** This Act may be known as the Carbon Capture, Utilization, and
5 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 38.05.725.**

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

14 (m) The commission has jurisdiction and authority over all persons and
15 property, public and private, necessary to carry out the purposes and intent of
16 AS 41.06, except for provisions in **AS 41.06.005 - 41.06.060 and 41.06.305**
17 [AS 41.06] for which the Department of Natural Resources has jurisdiction.

18 * **Sec. 4.** AS 31.05.030 is amended by adding a new subsection to read:

19 (o) Each year, the commission shall

20 (1) prepare a report documenting each case of oil and gas waste in the
21 state during the preceding calendar year and the actions taken by the commission in
22 response to the waste; and

23 (2) by the first day of each regular session of the legislature, deliver the
24 report prepared under this subsection to the senate secretary and the chief clerk of the
25 house of representatives and notify the legislature that the report is available.

26 * **Sec. 5.** AS 37.05.146(c) is amended by adding new paragraphs to read:

27 (86) carbon dioxide storage facility administrative fund
28 (AS 41.06.160);

29 (87) carbon storage closure trust fund (AS 37.14.850).

30 * **Sec. 6.** AS 37.13.010(a) is amended to read:

31 (a) Under art. IX, sec. 15, of the state constitution, there is established as a

1 separate fund the Alaska permanent fund. The Alaska permanent fund consists of
2

3 (1) 25 percent of all mineral lease rentals, royalties, royalty sale
4 proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue
5 sharing payments received by the state from mineral leases issued on or before
6 December 1, 1979, and 25 percent of all bonuses received by the state from mineral
7 leases issued on or before February 15, 1980;

8 (2) 50 percent of all mineral lease rentals, royalties, royalty sale
9 proceeds, net profit shares under AS 38.05.180(f) and (g), **carbon storage injection**
10 **royalties required under AS 38.05.705(c)(3)(B)**, and federal mineral revenue sharing
11 payments received by the state from mineral leases issued after December 1, 1979, and
12 50 percent of all bonuses received by the state from mineral leases issued after
February 15, 1980; and

13 (3) any other money appropriated to or otherwise allocated by law or
14 former law to the Alaska permanent fund.

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

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

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

22 (b) The carbon storage closure trust fund consists of payments received under
23 AS 41.06.175 and earnings on the fund. The payments received for each storage
24 facility shall be separately accounted for under AS 37.05.142. The commissioner of
25 revenue is a fiduciary of the fund. The commissioner of revenue shall manage and
26 invest the fund assets as provided in AS 37.10.071.

27 (c) The commissioner of natural resources may make expenditures from the
28 carbon storage closure trust fund for the purpose of conducting long-term monitoring
29 and maintenance of a storage facility under AS 41.06.305. If a storage operator is
30 unable to fulfill the storage operator's duties and the financial assurance provided by
31 the storage operator under AS 41.06.110(c)(2) is exhausted or insufficient, the Alaska

1 Oil and Gas Conservation Commission may make expenditures from the fund for the
2 purposes allowed under AS 41.06.105 - 41.06.210.

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

4 (e) In this section,

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

6 (2) "storage facility" and "storage operator" have the meanings given
7 in AS 41.06.210.

8 * **Sec. 8.** AS 38.05.069(e) is amended to read:

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

11 * **Sec. 9.** AS 38.05.070(a) is amended to read:

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

16 * **Sec. 10.** AS 38.05.130 is amended to read:

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

31 * **Sec. 11.** AS 38.05.135(a) is amended to read:

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

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

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

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

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

* **Sec. 14.** AS 38.05.135(e) is amended to read:

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

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

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

- (i) due; or
- (ii) received

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

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

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

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

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

was

- (i) due; or
- (ii) received

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

* Sec. 15. AS 38.05.140(a) is amended to read:

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

* **Sec. 16.** AS 38.05.184 is amended by adding a new subsection to read:

(h) A department or other state agency may not issue a carbon storage license or lease on state-owned land and water seaward of the mean higher high water line, beginning at Anchor Point; then around the perimeter of Kachemak Bay, to Point Pogibshi; then west to the three mile limit of state land and water; then north to a point three miles west of Anchor Point; then east to the mean higher high water line of

1 Anchor Point, the point of beginning.

2 * **Sec. 17.** AS 38.05 is amended by adding new sections to read:

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

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

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

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

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

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

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

17 (c) A carbon storage exploration license must

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

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

23 (A) an annual fee paid by the licensee to the department in an
24 amount that is at least \$20 an acre, subject to the license; and

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

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

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

31 (B) a charge on injected volumes of carbon dioxide of at least

\$2.50 a ton.

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

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

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

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

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

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

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

(g) The dollar amounts in (c) of this section shall increase every five years in proportion to the Consumer Price Index for urban consumers for urban Alaska, as determined by the United States Department of Labor, Bureau of Labor Statistics. The index for January 2024 is the reference base index.

(h) A charge on injected volumes of carbon dioxide required under (c)(3)(B) of this section or as altered by the commissioner under AS 38.05.715(c) is a royalty for the purposes of the Alaska permanent fund under AS 37.13.010.

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

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

(2) proposes minimum work commitments;

(3) proposes commercial terms applicable to a carbon storage lease that satisfy the requirements of AS 38.05.705(c)(3);

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

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

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

(b) The commissioner shall publish notice of a proposal received under (a) of this section. The notice must include a solicitation for competing proposals. The commissioner shall send a copy of the published notice to each lessee under AS 38.05.135 - 38.05.181 within one-half mile of the area proposed for the exploration license. Any person may submit a competing proposal, including a proposal for the authorization of subsurface storage of oil or gas under AS 38.05.180(u), under the process established by the commissioner in regulation. The regulations must require that a competing proposal be submitted not later than 90 days after the commissioner's notice is published.

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

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

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

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

(4) include a copy of the exploration license to be issued and the form of lease that will be used for any portion of the exploration license area that is later

1 converted to a lease under AS 38.05.715.

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

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

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

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

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

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

31 (2) a clause by which the licensee or lessee indemnifies the state for

1 any unreasonable interference the licensee or lessee might cause to the rights of a
2 lessee under AS 38.05.135 - 38.05.181.

3 (i) When notice is required under this section, the department shall follow the
4 requirements for notice under 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.

16 (c) Notwithstanding (b) of this section, if the commissioner determines that a
17 carbon storage project is in the best interests of the state and would not be
18 economically feasible under the commercial terms set by the license, the
19 commissioner may issue the carbon storage lease under alternative commercial terms.
20 A lease issued under this subsection must be supported by a written finding that
21 contains specific factual details justifying the decision, an explanation of the
22 commissioner's reasons for issuing the lease, and a description of the original terms
23 and the alternative terms of the lease. The finding must be published on the
24 commissioner's publicly available Internet website.

25 (d) A lease issued under this section must include

26 (1) commercial terms for the lease;

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

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

30 **Sec. 38.05.720. Transition from enhanced oil recovery operations to**
31 **carbon storage operations.** (a) A lessee under AS 38.05.180 shall acquire a carbon

1 storage lease before engaging in carbon storage activity that is not associated with
2 enhanced oil or gas recovery.

3 (b) At the commissioner's discretion, the commissioner may issue a carbon
4 storage lease to a lessee under AS 38.05.180 if the lessee is in compliance with
5 regulations adopted under AS 41.06.185(b). The commissioner may consider the
6 qualifications and abilities of the lessee to meet the commercial requirements of a
7 carbon storage lease and whether issuance of the lease is in the best interests of the
8 state.

9 (c) A carbon storage lease issued under this section must include

10 (1) commercial terms acceptable to the department that satisfy the
11 requirements of AS 38.05.705(c)(3);

12 (2) the agreements required under AS 38.05.710(h);

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

15 (d) Before a carbon storage lease issued under this section may be transferred
16 or assigned to an entity that is not the responsible party under the existing oil and gas
17 lease under AS 38.05.180, the assuming party must provide financial assurance
18 acceptable to the department that the obligations of the lease can be met.

19 (e) The department may adopt regulations that allow all or part of a lease
20 issued under AS 38.05.180 to be transitioned to a lease under this section upon the
21 receipt of a permit issued under AS 41.06.185.

22 **Sec. 38.05.725. Plan of development and operations; unitization.** (a) The
23 commissioner shall require the filing and approval of a plan of development and
24 operation for a carbon storage lease.

25 (b) To prevent or assist in preventing waste, and to protect the correlative
26 rights of persons owning interest in the tracts of land affected, with the approval of the
27 commissioner, a group of lessees may validly integrate the lessees' interests to provide
28 for the unitized management, development, and operation of the tracts of land as a
29 unit. The commissioner may suspend or modify a development plan approved under
30 (a) of this section in accordance with the unit agreement. In this subsection, "unit
31 agreement" means an agreement by lessees with an interest in the unit, the state, and

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

2 (c) A lease operated under a plan approved or prescribed by the commissioner
3 under this section is excepted from determining holdings or control under
4 AS 38.05.140. The provisions of this section concerning cooperative or unit plans are
5 in addition to and do not affect AS 31.05 and AS 41.06.

6 **Sec. 38.05.730. Payments from carbon storage exploration licenses and**
7 **carbon storage leases.** Except as otherwise provided in AS 38.05.705(h) or under art.
8 IX, sec. 15, Constitution of the State of Alaska, the department shall deposit in the
9 general fund the money it collects under AS 38.05.700 - 38.05.795.

10 **Sec. 38.05.735. Annual report to the legislature.** The commissioner shall
11 prepare an annual report that includes an accounting of the carbon storage closure trust
12 fund established under AS 37.14.850 and information on carbon storage licensing
13 applications and decisions and the issuance of carbon storage leases. The
14 commissioner shall submit the report to the senate secretary and the chief clerk of the
15 house of representatives on or before February 1 of each year and notify the legislature
16 that the report is available.

17 **Sec. 38.05.740. Removal and restoration after termination.** Upon
18 termination of a license under AS 38.05.705 or a lease under AS 38.05.715 or
19 38.05.720, a licensee or lessee shall promptly remove all improvements and
20 equipment, except as otherwise approved in writing by the commissioner, and shall
21 restore the land to a condition that is approved by the commissioner.

22 **Sec. 38.05.795. Definitions.** In AS 38.05.700 - 38.05.795, unless the context
23 requires otherwise,

24 (1) "carbon storage" means the underground storage of carbon dioxide
25 in a carbon storage reservoir;

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

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

28 * **Sec. 18.** AS 38.35.020(a) is amended to read:

29 (a) Rights-of-way on state land, including rights-of-way over, under, along,
30 across, or on [UPON] the right-of-way of a public road or highway or the right-of-way
31 of a railroad or other public utility, or across, on [UPON], over, or under a river or

1 other body of water or land belonging to or administered by the state may be granted
2 by noncompetitive lease by the commissioner for pipeline purposes for the
3 transportation of oil, products, **carbon dioxide**, or natural gas under those conditions
4 prescribed by law or by administrative regulation. Except to the extent authorized by
5 an oil and gas lease, a gas only lease, **or a carbon storage lease**, or an oil and gas,
6 [OR] gas only, **or carbon storage** unit agreement approved by the state, no person
7 may engage in any construction or operation of any part of an oil, products, **carbon**
8 **dioxide**, or natural gas pipeline **that is or is proposed to be**, [WHICH] in whole or in
9 part, [IS OR IS PROPOSED TO BE] on state land unless that person has obtained
10 from the commissioner a right-of-way lease of the land under this chapter.

11 * **Sec. 19.** AS 38.35.020(b) is amended to read:

12 (b) The commissioner may by regulation exempt **from the requirement of a**
13 **right-of-way lease under this chapter** the construction or operation of
14 (1) field gathering lines or any reasonable classification of **field**
15 **gathering lines; and**
16 (2) **a pipeline transporting carbon dioxide within a field for the**
17 **purpose of an enhanced oil or gas recovery project under AS 41.06.185 or field**
18 **pressurization measures within that same field** [THEM FROM THE
19 REQUIREMENT OF A RIGHT-OF-WAY LEASE UNDER THIS CHAPTER].

20 * **Sec. 20.** AS 38.35.122 is amended to read:

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

25 * **Sec. 21.** AS 38.35.230(3) is amended to read:

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

31 * **Sec. 22.** AS 38.35.230(7) is amended to read:

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

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

(10) "transportation" means the shipment or carriage by a pipeline of crude oil, natural gas, **carbon dioxide**, or products from an upstream terminus in one or more fields or points of production or supply of the minerals to a downstream terminus in one or more points for delivery of the minerals to a purchaser or consignee, for storage, or for further carriage or shipment, including shipment or carriage within the state that may be classified as interstate or foreign transportation to the extent that the transportation may constitutionally be subjected to the provisions of this chapter, as well as all services necessary to **carry out** [EFFECTUATE] shipment or carriage, including [, AMONG OTHER THINGS,] the receipt, storage, processing, handling, transfer in transit, forwarding, and delivery of the minerals.

* **Sec. 24.** AS 38.35.230 is amended by adding a new paragraph to read:

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

* Sec. 25. AS 41.06.005 is amended to read:

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

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

1 * **Sec. 26.** AS 41.06.020 is amended to read:

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

5 (b) The authority of the commission applies to all land in the state lawfully
6 subject to the police power of the state, including private land, municipal land, state
7 land, land of the United States, and land subject to the jurisdiction of the United
8 States, and to all land included in a voluntary cooperative or unit plan of development
9 or operation entered into in accordance with AS 38.05.181. When land that is subject
10 to the commission's authority is committed to a unit agreement involving land subject
11 to federal jurisdiction, the operation of **AS 41.06.005 - 41.06.060** [THIS CHAPTER]
12 or a part of **AS 41.06.005 - 41.06.060** [THIS CHAPTER] may be suspended if

13 (1) the unit operations are regulated by the United States; and
14 (2) the conservation of geothermal resources is accomplished under the
15 unit agreement.

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

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

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

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

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

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

(1) over geothermal resources under AS 38.05.181; or

(2) to approve and manage geothermal units or operations that include

* **Sec. 27.** AS 41.06.030(e) is amended to read:

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

* **Sec. 28.** AS 41.06.035(b) is amended to read:

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

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

(a) The commission shall adopt regulations under AS 44.62 (Administrative Procedure Act), issue orders, and take other appropriate action to carry out the purposes and intent of **AS 41.06.005 - 41.06.060** [THIS CHAPTER], including adopting regulations to prevent

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

(2) contamination of surface and groundwater;

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

(4) blowouts, cavings, and seepage; and

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

1 * **Sec. 30.** AS 41.06.050(e) is amended to read:

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

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

6 (2) proposed well is contrary to a provision of AS 41.06.005 -
7 41.06.060 [THIS CHAPTER], a regulation adopted by the commission, another law,
8 or an order, stipulation, or term of a permit issued by the commission; and

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

13 * **Sec. 31.** AS 41.06.055(c) is amended to read:

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

18 * **Sec. 32.** AS 41.06.055(d) is amended to read:

19 (d) The commission shall collect the regulatory cost charges imposed under
20 this section. The Department of Administration shall identify the amount of
21 appropriations made for the operating costs of the commission under AS 41.06.005 -
22 41.06.060 [THIS CHAPTER] that lapse into the general fund each year. The
23 legislature may appropriate an amount that is at least equal to the lapsed amount to the
24 commission for its operating costs under AS 41.06.005 - 41.06.060 [THIS
25 CHAPTER] for the next fiscal year. If the legislature makes an appropriation to the
26 commission under this subsection that is equal to or greater than the lapsed amount,
27 the commission shall reduce the total regulatory cost charge collected for that fiscal
28 year by a comparable amount.

29 * **Sec. 33.** AS 41.06.060 is amended to read:

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

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

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

4 (3) "correlative rights" means the right of an owner of each property in
5 a geothermal system to produce without waste the owner's just and equitable share of
6 the geothermal resources in the geothermal system; a just and reasonable share is an
7 amount, so far as can be practically determined and so far as can be practically
8 produced without waste, that is substantially in proportion to the quantity of
9 recoverable geothermal resources under the owner's property relative to the total
10 recoverable geothermal resources in the geothermal system;

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

14 (5) "geothermal resources"

15 (A) means the natural heat of the earth at temperatures greater
16 than 120 degrees Celsius, or any use of that heat for commercial purposes,
17 measured at the point at which [WHERE] the highest-temperature resources
18 encountered enter or contact a well or other resource extraction device or any
19 commercial use of the natural heat of the earth;

20 (B) includes

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

24 (ii) the material medium, including steam and other
25 gases, hot water, and hot brines constituting the geothermal fluid
26 naturally present, as well as substances artificially introduced to serve
27 as a heat transfer medium; and

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

31 (6) "geothermal system" means a stratum, pool, reservoir, or other

1 geologic formation containing geothermal resources;

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

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

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

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

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

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

17 * **Sec. 34.** AS 41.06 is amended by adding new sections to read:

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

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

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

24 (1) in the state lawfully subject to the police power of the state,
25 including private land, municipal land, state land, federal land, and land subject to the
26 jurisdiction of the United States; and

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

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

- (1) the unit operations are regulated by the United States; and
- (2) conservation of resources in the reservoir or pool is accomplished

(c) The commission has the authority to

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

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

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

(A) inspect equipment and facilities;

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

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

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

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

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

(e) Nothing in AS 41.06.105 - 41.06.210 limits the authority of the Department of Natural Resources under AS 38.05.700 - 38.05.795 or AS 41.06.305.

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

Sec. 41.06.120. Storage facility permit. (a) A storage operator is required to

1 obtain a permit from the commission to operate a storage facility.

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

3 (c) A person applying for a permit shall

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

5 (2) comply with application requirements;

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

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

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

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

19 (f) The commission shall deposit fees collected under this section in the
20 carbon dioxide storage facility administrative fund established in AS 41.06.160.

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

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

26 (1) each mineral lessee, mineral owner, and mineral right owner of
27 record within the storage reservoir and within one-half mile of the boundaries of the
28 storage reservoir;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) that the horizontal and vertical boundaries of the proposed storage reservoir are defined and the boundaries include buffer areas to ensure that the storage

1 facility is operated safely and as contemplated;

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

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

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

10 **Sec. 41.06.135. Permit provisions.** The commission may include in a permit
11 or order any parameters necessary to carry out the objectives of AS 41.06.105 -
12 41.06.210, prevent waste, protect correlative rights, and ensure the health and safety of
13 persons affected by the permit.

14 **Sec. 41.06.140. Amalgamating property interests.** If a storage operator does
15 not obtain the consent of all persons with an ownership interest in the storage
16 reservoir, the commission may order that the pore space rights of nonconsenting
17 owners be included in a storage facility and subject to carbon storage. Before the
18 commission may issue an order forming an amalgamation under this section, the
19 commission shall provide public notice and hold a hearing.

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

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

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

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

31 (b) For the purposes of this section, and in the application of other laws,

1 carbon dioxide that is stored and remains in carbon storage under a permit is not
2 considered a pollutant and does not constitute a nuisance.

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

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

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

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

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

14 (a) A storage operator shall pay to the commission a fee on each metric ton of carbon
15 dioxide injected for carbon storage. The commission shall set the amount of the fee
16 based on the anticipated expenses the commission will incur in regulating storage
17 facilities during each phase, including the construction, operational, and pre-
18 completion phases. The commission shall deposit a fee collected under this subsection
19 in the carbon dioxide storage facility administrative fund established in (b) of this
20 section.

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

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

26 (c) Money in the carbon dioxide storage facility administrative fund shall be
27 separately accounted for under AS 37.05.142. The legislature may appropriate the
28 money in the fund to the commission to carry out the purposes of AS 41.06.105 -
29 41.06.210.

30 **Sec. 41.06.165. Title to carbon dioxide.** The storage operator has title to the
31 carbon dioxide injected into and stored in a storage reservoir and holds title until the

1 commission issues a certificate of completion under AS 41.06.170. While the storage
2 operator holds title, the operator is liable for any damage the carbon dioxide may
3 cause, including damage caused by carbon dioxide that escapes from the storage
4 facility. When a certificate of completion is issued under AS 41.06.170, title to carbon
5 dioxide injected into and stored in a storage reservoir is transferred to the owner of the
6 pore space, unless the storage operator and the owner of the pore space have a
7 contrary agreement.

8 **Sec. 41.06.170. Certificate of completion.** (a) Once a storage operator
9 discontinues carbon dioxide injections into a storage reservoir, and upon application
10 by the storage operator, the commission may issue a certificate of completion

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

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

16 (3) after a period of at least 50 years, or another period approved by
17 the commission for the storage reservoir based on requirements established in
18 regulation, has elapsed since the last carbon dioxide injection into the storage
19 reservoir.

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

22 (1) has fully complied with all laws governing the storage facility;
23 (2) shows that the operator has addressed all pending claims regarding
24 the operation of the storage facility;

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

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

(5) shows that all wells, equipment, and facilities allowed to remain in place following post-injection site care and site closure are in good condition and retain mechanical integrity;

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

- (7) has paid all fees and surcharges owed for the storage facility; and
- (8) meets any other regulatory requirements established by the state.

(c) Once a certificate of completion is issued, the department assumes primary responsibility for long-term monitoring and maintenance of the storage facility, as provided in AS 41.06.305. The storage operator and all persons who generated injected carbon dioxide are released from liability to the state associated with the storage facility in an amount equal to the amount attributed to the storage facility in the carbon storage closure trust fund established in AS 37.14.850. The state, the department, or the commission is not liable for damages arising out of, or in any manner connected with, long-term monitoring and maintenance of a storage facility if the amount for the storage facility separately accounted for in the carbon storage closure trust fund established in AS 37.14.850 is unavailable or insufficient. A bond posted by the storage operator under AS 41.06.110(c)(2) must be released. In this subsection, "long-term monitoring and maintenance" has the meaning given in AS 41.06.305(e).

Sec. 41.06.175. Carbon storage facility injection surcharge. (a) A storage operator injecting carbon dioxide at a storage facility shall pay to the commission a surcharge each year for the first 12 years that carbon dioxide is injected at the storage facility. The commission shall deposit the surcharge into the general fund. The legislature may appropriate a surcharge collected under this subsection into the carbon storage closure trust fund established in AS 37.14.850.

(b) The annual surcharge in this section is determined by the following formula: $S = (7,500,000 \times (I/261.78)) / 12$, where

- (1) S is the dollar amount of the annual surcharge for a storage facility;
- (2) I is equal to the Consumer Price Index for urban consumers for

1 urban Alaska, as determined by the United States Department of Labor, Bureau of
2 Labor Statistics, without seasonal adjustment, for December of the calendar year
3 immediately preceding the year of issuance of the storage facility permit.

4 **Sec. 41.06.180. Penalties.** (a) In addition to the penalties in (b) - (d) of this
5 section, a person who violates a provision of AS 41.06.105 - 41.06.210, a regulation
6 adopted under AS 41.06.105 - 41.06.210, or an order or term of a permit issued by the
7 commission under AS 41.06.105 - 41.06.210 is liable for a civil penalty of not more
8 than \$100,000 for the initial violation and not more than \$10,000 for each day
9 thereafter on which the violation continues.

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

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

18 (d) A person who knowingly aids or abets another person in the violation of a
19 provision of AS 41.06.105 - 41.06.210, a regulation adopted under AS 41.06.105 -
20 41.06.210, or an order, stipulation, or term of a permit issued by the commission is
21 subject to the same penalty as that prescribed in this section for the violation by the
22 other person.

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

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

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

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

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

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

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

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

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

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

(9) other matters justice requires.

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

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

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

(b) The commission may enter into contracts with private persons to assist in carrying out the objectives of AS 41.06.105 - 41.06.210. If an emergency exists, the

1 commission may enter into contracts without public notice and without competitive
2 bidding.

3 **Sec. 41.06.195. Determining capacity of storage reservoir; carbon credits;**
4 **fees.** (a) The commission may adopt a written policy establishing procedures and
5 criteria that the commission will use to determine the carbon storage capacity of a
6 storage reservoir, including for the purpose of enhanced oil or gas recovery.

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

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

18 **Sec. 41.06.210. Definitions.** In AS 41.06.105 - 41.06.210, unless the context
19 requires otherwise,

20 (1) "carbon dioxide" means carbon dioxide of a quality that will not
21 compromise

22 (A) the safety of carbon storage; and

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

25 (2) "carbon storage" means the underground storage of carbon dioxide
26 in a storage reservoir;

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

29 (4) "enhanced oil or gas recovery" means the increased recovery of
30 hydrocarbons, including oil and gas, from a common source of supply achieved by
31 artificial means or by the application of energy extrinsic to the common source of

1 supply, including pressuring, cycling, pressure maintenance or injection of a substance
2 or form of energy, including injection of water, gas, carbon dioxide, or both gas and
3 carbon dioxide, including immiscible and miscible floods, as long as the enhanced oil
4 or gas recovery does not include injection of a substance or form of energy for the sole
5 purpose of

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

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

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

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

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

17 (8) "storage facility" means the storage reservoir, underground
18 equipment, well, and surface facilities and equipment used in accordance with a
19 permit; "storage facility" does not include pipelines, compressors, surface facilities,
20 and equipment used to transport carbon dioxide to the storage facility that are
21 unrelated to well safety and metering;

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

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

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

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

31 (13) "well" means a well that is drilled, converted, or reactivated for

1 discovery, testing, or subsurface injection into a reservoir.

2 **Article 3. Long-Term Monitoring and Maintenance of Carbon Storage Facilities.**

3 **Sec. 41.06.305. Long-term monitoring and maintenance.** (a) The
4 department shall conduct long-term monitoring and maintenance of a storage facility
5 that has been issued a certificate of completion under AS 41.06.170.

6 (b) Under this section, the authority of the department applies to all land in the
7 state lawfully subject to the police power of the state, including private land,
8 municipal land, state land, land of the United States, and land subject to the
9 jurisdiction of the United States. The department may enter, at a reasonable time and
10 in a reasonable manner, the site of a storage facility that has been issued a certificate
11 of completion under AS 41.06.170.

12 (c) The state, the department, and the commission have no obligation to pay
13 costs associated with long-term monitoring and maintenance of a storage facility in an
14 amount greater than the amount attributable to that storage facility and separately
15 accounted for under AS 37.14.850.

16 (d) The department may adopt regulations under AS 44.62 (Administrative
17 Procedure Act) to carry out the purposes of this section.

18 (e) In this section,

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

21 (2) "long-term monitoring and maintenance" means an activity
22 associated with monitoring and maintenance of a storage facility that has been issued a
23 certificate of completion under AS 41.06.170 and may include

24 (A) operational and long-term inspecting, testing, and
25 monitoring of the storage facility site, wells, and remaining facilities;

26 (B) remediation measures arising from the storage facility site,
27 including remediation of property and mechanical problems associated with
28 wells and remaining facilities;

29 (C) repairing mechanical leaks at the storage facility site;

30 (D) plugging and abandoning wells;

31 (E) converting wells for use as observation wells;

(F) purchasing or paying insurance costs for a storage facility, whether commercially or through government funding;

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

* Sec. 35. AS 41.08.020(b) is amended to read:

(b) In addition to the requirements of (a) of this section, the division of geological and geophysical surveys shall [:]

(1) collect, record, evaluate, and distribute data on the quantity, quality, and location of underground, surface, and coastal water of the state;

(2) publish or have published data on the water of the state;

(3) require the [FILING WITH IT OF THE] results and findings of surveys of water quality, quantity, and location **to be filed with the division;**

(4) require [OF] water well contractors to file with the division [, THE FILING WITH IT OF] basic water and aquifer data normally obtained, including [BUT NOT LIMITED TO] well location, estimated elevation, well driller's logs, pumping tests and flow measurements, and water quality determinations;

(5) accept and spend funds for the purposes of this section, AS 41.08.017, and 41.08.035 and enter into agreements with individuals, public or private agencies, communities, private industry, state agencies, and agencies of the federal government;

(6) collect, evaluate, and distribute geologic data on seismic events and engineering geology of the state;

(7) identify potential seismic hazards that might affect development in the state;

(8) inform public officials and industry about potential seismic hazards that might affect development in the state; **and**

(9) make available to a qualified person without charge seismic survey and other geophysical data in possession of the department that relates to land inside the Cook Inlet sedimentary basin, unless the data is

(A) required to be kept confidential under AS 31.05.035(c)

(B) well data from a well on private land that the owner of

1 **the oil or gas resource has not provided permission to release to the**
2 **public.**

3 * **Sec. 36.** AS 41.08.020 is amended by adding a new subsection to read:

4 (c) In this section, "qualified person" means an accredited domestic research
5 institution, a person actively exploring for, developing, or producing oil, gas, or
6 minerals in the state, or another person to whom the provision of seismic survey and
7 other geophysical data would serve the best interests of the state as determined by the
8 department.

9 * **Sec. 37.** AS 41.21.167(a) is amended to read:

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

12 * **Sec. 38.** AS 41.21.491(d) is amended to read:

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

17 * **Sec. 39.** AS 41.21.502(c) is amended to read:

18 (c) The mineral estate in the state-owned land and water described in (a) of
19 this section is open to 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
21 state-owned land and water described in (a) of this section is closed to mineral entry
22 under AS 38.05.181 - 38.05.275.

23 * **Sec. 40.** AS 41.21.617 is amended to read:

24 **Sec. 41.21.617. Other uses generally.** The state land and water described in
25 AS 41.21.611(b) is closed to mineral entry under AS 38.05.135 - 38.05.275 **and**
26 **38.05.700 - 38.05.795,** to commercial harvest of timber, and to sale under state land
27 disposal laws. The commissioner may lease the land described in AS 41.21.611(b)
28 under AS 38.05.070 - 38.05.105 for a purpose consistent with AS 41.21.610(a) and
29 (b). A municipality may select land within the Alaska Chilkat Bald Eagle Preserve
30 under law.

31 * **Sec. 41.** AS 42.05.141 is amended by adding new subsections to read:

(g) Except as provided in AS 42.05.711(q) and (s), the commission shall regulate under this chapter the service of natural gas storage and the service of liquefied natural gas storage, including storage furnished by operating a natural gas storage facility that is part of a

(1) pipeline facility operated by a pipeline carrier; or

(2) natural gas pipeline facility operated by a natural gas pipeline carrier.

(h) In (g) of this section, "natural gas pipeline carrier," "natural gas pipeline facility," "pipeline carrier," and "pipeline facility" have the meanings given in AS 42.06.630.

* **Sec. 42.** AS 42.05.381(k) is amended to read:

(k) The cost to the utility of storing gas in a gas storage facility or storing liquefied natural gas in a liquefied natural gas storage facility that is allowed in determining a just and reasonable rate shall reflect the

(1) reduction in cost attributable to any exemption from a payment due under AS 38.05.096 or 38.05.180(u), as applicable, and the value of a tax credit that the owner of the gas storage facility received under AS 43.20.046 or 43.20.047, as applicable; **the** [. THE] commission may request the

(A) [(1)] commissioner of natural resources to report the value of the exemption from a payment due under AS 38.05.096 or 38.05.180(u), as applicable, that the gas storage facility received; and

(B) [(2)] commissioner of revenue to report information on the amount of tax credits claimed under AS 43.20.046 and 43.20.047, as applicable, for the gas storage facility or liquefied natural gas storage facility;

(2) fair market value of oil and gas fields, drilling rigs, production platforms, wells, and similar assets used for gas storage or liquefied natural gas storage and a fair return on the fair market value of those assets;

(3) costs related to the dismantlement, removal, and restoration of a gas storage facility or liquefied natural gas storage facility [. IN THIS SUBSECTION, "GAS STORAGE FACILITY" HAS THE MEANING GIVEN IN AS 31.05.032].

1 * **Sec. 43.** AS 42.05.381 is amended by adding new subsections to read:

2 (p) For rate-making purposes, the commission shall consider the investment of
3 a public utility in a liquefied natural gas import or export facility as utility property,
4 even if the liquefied natural gas import or export facility is exempt from regulation by
5 the commission. In this subsection,

6 (1) "investment" includes an investment in land used to connect to a
7 liquefied natural gas import or export facility used by the public utility to render
8 service to the public;

9 (2) "liquefied natural gas import or export facility" includes a facility
10 used to receive, unload, load, store, transport, gasify, liquefy, or process natural gas.

11 (q) In (k) of this subsection, "gas storage facility" has the meaning given in
12 AS 31.05.032(e).

13 * **Sec. 44.** AS 42.05 is amended by adding a new section to article 5 to read:

14 **Sec. 42.05.505. Records of gas storage facilities.** Records held by the
15 commission related to the finances of a gas storage facility, a liquefied natural gas
16 storage facility, or a public utility providing the service of natural gas storage,
17 including financial statements and financial assurance agreements, are confidential
18 and are not public records under AS 40.25.100 - 40.25.295 (Alaska Public Records
19 Act). The commission may disclose information from a record subject to this section
20 only to a state or federal agency if the commission determines that disclosure of the
21 information is necessary for the commission to complete its duties.

22 * **Sec. 45.** AS 42.05.711(q) is amended to read:

23 (q) The service of natural gas storage furnished by operating a natural gas
24 storage facility that is [(1) PART OF A PIPELINE FACILITY OPERATED BY A
25 PIPELINE CARRIER, (2) PART OF A NATURAL GAS PIPELINE FACILITY
26 OPERATED BY A NATURAL GAS PIPELINE CARRIER, OR (3)] part of a North
27 Slope natural gas pipeline facility operated by a North Slope natural gas pipeline
28 carrier is exempt from this chapter. In this subsection, ["NATURAL GAS PIPELINE
29 CARRIER," "NATURAL GAS PIPELINE FACILITY,"] "North Slope natural gas
30 pipeline carrier [,"] and "North Slope natural gas pipeline facility [,]" ["PIPELINE
31 CARRIER," AND "PIPELINE FACILITY"] have the meanings given in

1 AS 42.06.630.

2 * **Sec. 46.** AS 42.05.711 is amended by adding a new subsection read:

3 (w) A liquefied natural gas import facility under the jurisdiction of the Federal
4 Energy Regulatory Commission is exempt from this chapter.

5 * **Sec. 47.** AS 42.06.140 is amended by adding new subsections to read:

6 (c) The commission shall regulate under AS 42.05 the service of natural gas
7 and liquefied natural gas storage, including storage furnished by operating a natural
8 gas storage facility that is part of a

9 (1) pipeline facility operated by a pipeline carrier; or

10 (2) natural gas pipeline facility operated by a natural gas pipeline
11 carrier.

12 (d) In this section,

13 (1) "service of liquefied natural gas storage" means the operation of a
14 liquefied natural gas storage facility; "service of liquefied natural gas storage" does
15 not include the storage of liquefied natural gas

16 (A) owned by or contractually obligated to the owner, operator,
17 or manager of the liquefied natural gas storage facility; or

18 (B) for which the price of storage is not separately itemized;

19 (2) "service of natural gas storage" means the operation of a natural
20 gas storage facility primarily or exclusively for the benefit of third-party customers,
21 and not for the benefit of the owner, operator, or manager of the natural gas storage
22 facility; "service of natural gas storage" does not include the storage of natural gas

23 (A) owned by or contractually obligated to the owner, operator,
24 or manager of the natural gas storage facility; or

25 (B) for which the price of storage is not separately itemized.

26 * **Sec. 48.** AS 43.20.036 is amended by adding a new subsection to read:

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

30 * **Sec. 49.** AS 46.03.020 is amended to read:

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

- (1) enter into contracts and compliance agreements necessary or convenient to carry out the functions, powers, and duties of the department;
- (2) review and appraise programs and activities of state departments and agencies in light of the policy set out in AS 46.03.010 for the purpose of determining the extent to which the programs and activities are contributing to the achievement of that policy and to make recommendations to the departments and agencies, including environmental guidelines;
- (3) consult with and cooperate with
 - (A) officials and representatives of any nonprofit corporation or organization in the state;
 - (B) persons, organizations, and groups, public and private, using, served by, interested in, or concerned with the environment of the state;
- (4) appear and participate in proceedings before any state or federal regulatory agency involving or affecting the purposes of the department;
- (5) undertake studies, inquiries, surveys, or analyses it may consider essential to the accomplishment of the purposes of the department; these activities may be carried out by the personnel of the department or in cooperation with public or private agencies, including educational, civic, and research organizations, colleges, universities, institutes, and foundations;
- (6) at reasonable times, enter and inspect with the consent of the owner or occupier any property or premises to investigate either actual or suspected sources of pollution or contamination or to ascertain compliance or noncompliance with a regulation that may be adopted under AS 46.03.020 - 46.03.040; information relating to secret processes or methods of manufacture discovered during investigation is confidential;
- (7) conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books, and documents by the issuance of a subpoena;
- (8) advise and cooperate with municipal, regional, and other local agencies and officials in the state, to carry out the purposes of this chapter;
- (9) act as the official agency of the state in all matters affecting the

purposes of the department under federal laws now or hereafter enacted;

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

(A) control, prevention, and abatement of air, water, or land or subsurface land pollution;

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

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

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

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

(F) control of pesticides;

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

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

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

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

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

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

* **Sec. 50.** AS 42.05.990(10)(B) and 42.05.990(11)(B) are repealed.

* **Sec. 51.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

* **Sec. 52.** The uncodified law of the State of Alaska is amended by adding a new section to read:

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

* **Sec. 53.** Section 51 of this Act takes effect immediately under AS 01.10.070(c).