



Sectional Analysis Senate Bill 49 – Carbon Storage (33-GS1567\A)

Sections 1 and 2 amend the Alaska Oil and Gas Conservation Act (AS 31.05)

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

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 38.05.730 (see Section 14).

Section 3: Amends AS 31.05.030(h) to expand AOGCC's existing power to take all actions necessary to obtain state primary enforcement responsibility over Class I wells to include all actions necessary to acquire state primary enforcement over Class VI wells. Class VI wells are used to inject carbon dioxide into deep rock formations for long-term underground storage.

Section 4 creates a carbon storage closure trust fund in AS 37.14

Section 4: Adds a new section AS 37.14.850 to create a “Carbon Storage Closure Trust Fund,” which is not a dedicated fund, and will include two accounts: an income account and an operating account. The income account consists of payments received by AOGCC under new authorities granted under AS 41.06 by this bill. The income account is to be transferred annually to the operating account by legislative appropriation.

Sections 5 through 14 Amend the Alaska Land Act (AS 38.05)

Section 5: Amends AS 38.05.069(e), adding carbon storage under AS 38.05.700-38.05.795 (see Section 14) as an exception to the general rule that the DNR director of the division of lands cannot transfer state land classified as agriculture except for agricultural purposes, thereby allowing for agricultural lands to be transferred for mineral disposal for carbon storage.

Section 6: Amends AS 38.05.070(a) to exempt carbon storage leasing from application of AS 38.05.070–105 when state lands are leased for purposes other than extrication of natural resources.

Section 7: 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.

Section 8: Amends AS 38.05.135(a) to include the “Alaska Carbon Underground Storage Act” (see Section 14) in requirements and limitations for the State’s mineral estate leasing and development.

Section 9: Amends AS 38.05.135(c) to include provision for payments of rents or charges under the “Alaska Carbon Underground Storage Act” (see Section 14).

Section 10: Amends AS 38.05.135(d) to include provision for penalties on late payments of rents or charges under the “Alaska Carbon Underground Storage Act” (see Section 14).

Section 11: Amends AS 38.05.135(e) to include provision for interest on overpayments of rents or charges under the “Alaska Carbon Underground Storage Act” (see Section 14).

Section 12: Amends AS 38.05.140(a) to require carbon storage lessees under the “Alaska Carbon Underground Storage Act” (see Section 14) to be the same as the lessee of non-conventional gas under AS 38.05.180(ff)(3) or coal bed methane under AS 38.05.180(gg) where mineral leases are issued on the same land.

Section 13: Amends AS 38.05.184(b) to prohibit carbon storage licenses or leases from being issued in the Kachemak Bay oil and gas closure area.

Section 14: Adds new subsections AS 38.05.700–795 under the title “Alaska Carbon Underground Storage Act.”

1. **AS 38.05.700:** Policy statement that it is in the public interest to promote geologic storage of carbon dioxide.
2. **AS 38.05.705:** Provision for applicability carbon storage statutes and authority for DNR to adopt regulations to implement these statutes.
3. **AS 38.05.710:** Allows the commissioner to issue carbon storage exploration licenses on state land and establishes work commitment obligations, minimum economic terms, the bonding is required, default provisions, renewal provisions, and the escalation of minimum economic terms.
4. **AS 38.05.715:** Procedures for issuance of a carbon storage exploration license. These are modeled after existing procedures for oil and gas exploration licensing under [AS 38.05.133](#).

5. **AS 38.05.720:** Provision allowing conversion of an AS 38.05.715 carbon storage exploration license to a carbon storage lease.
6. **AS 38.05.725:** Provision for an oil and gas lessee who must convert a Class II injection well to a Class VI injection well to also apply for a carbon storage lease.
7. **AS 38.05.730:** Requirements for plans of development and operations, and provision for unitization, as with oil and gas leasing.
8. **AS 38.05.735:** 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.
9. **AS 38.05.795:** Definitions for specific terms used in the “Alaska Carbon Underground Storage Act.”

Sections 15 through 21 apply to the State Pipeline Coordinator’s authority under the AS 38.35 Right of Way Leasing Act.

Section 15: Amends AS 38.35.020(a) to include carbon dioxide and carbon storage in the authority for right-of-way leasing.

Section 16: Amends AS 38.05.020(b), which allows the commissioner of DNR to exempt the construction or operation of field gathering lines from the requirement of a right-of-way lease under AS 38.35. The proposed amendment would allow the commissioner to exempt 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.

Section 17: 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 of 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 to a pipeline that is not a natural gas pipeline contract carrier.

Sections 18-21 amend or add definition to AS 38.35.230 which contain definitions applicable to AS 38.35.

Section 18: Amends the definition of “lease” in AS 38.35.230(3) to include a reference to a pipeline transporting carbon dioxide.

Section 19: Amends the definition of “pipeline” or “pipeline facility” in AS 38.35.230(7) to include the transportation of carbon dioxide.

Section 20: Amends the definition of “transportation” in AS 38.35.230(10) to include a pipeline carrying carbon dioxide.

Section 21: Adds as a new subsection to define “carbon dioxide” as the meaning given in AS 38.05.795 (see Section 14).

Sections 22 through 38 apply to AOGCC statutes under Title 41.

Sections 22-30 are conforming amendments to the geothermal resource statutes.

Section 22: Amends AS 41.06.005 regarding AOGCC and DNR’s jurisdiction over management of geothermal resources to clarify applicability to geothermal statutes (AS 41.06.005–060).

Section 23: 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 24: Amends AS 41.06.030(b) to clarify applicability to geothermal statutes (AS 41.06.005–060) regarding the authority of AOGCC to adopt regulations regarding geothermal resources.

Section 25: 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 26: 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 27: 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 28: 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 29: 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 30: Amends AS 41.06.060 to include definitions for geothermal statutes (AS 41.06.005–060).

Section 31: Adds a new article to AS 41.06, titled “Article 2. Carbon Dioxide Injection and Storage,” beginning at AS 41.06.105:

1. **AS 41.06.105:** Contains a policy statement providing that it is in the public interest to inject carbon dioxide into oil and gas reservoirs in a manner protective of waters and reservoir integrity. It also recognizes that in the event cooperation of mineral interest holders in an area cannot be obtained, regulatory procedures that enable cooperative management are required.
2. **AS 41.06.110:** 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.
3. **AS 41.06.115:** Concerns AOGCC's authority to carry out the purposes and intent of AS 41.06.105 - 41.06.210. 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 - 41.06.210. Subsection (b) provides that the operation of AS 41.06.105 - 41.06.210 may be suspended pursuant to a unit agreement if unit operations are regulated by the United States and the agreement accomplishes "conservation of resources." The phrase "conservation of resources" is not specific to the CCUS permitting context and, if desired, could be amended to align with the purposes of AS 41.06.110 or to refer to the integrity of a geologic reservoir. 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 - 41.06.210. Subsection (e) provides that nothing in AS 41.06.105 - AS 41.06.210 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.
4. **AS 41.06.120:** 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 injection of carbon dioxide and "substances commonly associated with carbon dioxide injection" is not waste.
5. **AS 41.06.125:** Provides specifications for storage facility permitting.
6. **AS 41.06.130:** Creates a public hearing requirement for storage facility permits issued by AOGCC.
7. **AS 41.06.135:** Specifies the requirements for carbon storage facility permits.

8. **AS 41.06.140:** Allows the AOGCC to include parameters, limitations, or restrictions in a permit and to protect and adjust rights and obligations of persons affected by geologic storage.
9. **AS 41.06.145:** Concerns amalgamation of property interests and forced pooling for storage facilities.
10. **AS 41.06.150:** Creates specifications for a carbon storage facility certificate.
11. **AS 41.06.155:** Creates requirements for AOGCC to ensure environmental protection and reservoir integrity in storage facilities and reservoirs.
12. **AS 41.06.160:** Clarifies preservation of rights, including deconfliction of development of other minerals by drilling through or near a storage reservoir.
13. **AS 41.06.165:** Provides authority for AOGCC to collect fees and creation of a “carbon dioxide storage facility administrative fund” under the general fund.
14. **AS 41.06.170:** Specifies that storage operators hold title to injected carbon dioxide until a certificate is issued under AS 41.06.175, including liability for damage associated with injected carbon dioxide.
15. **AS 41.06.175:** Specifies criteria for certificate of completion a transfer of title of CO₂.
16. **AS 41.06.180:** Provides authority for AOGCC to collect a “carbon storage facility injection surcharge” for post-closure administration to be deposited in the “carbon storage closure trust fund” established in AS 37.14.850.
17. **AS 41.06.185:** Provision for AOGCC to impose civil penalties for violations of its carbon storage statutes.
18. **AS 41.06.190:** 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.
19. **AS 41.06.195:** Authority for AOGCC to enter into agreements with other government entities and agencies for carbon storage purposes.
20. **AS 41.06.200:** Authority for AOGCC to determine amounts for injection and storage, including EOR. Also provides for fees and applicability for credits and other carbon management goals.
21. **AS 41.06.210:** Definitions for terms used in AOGCC’s carbon storage statutes.

Sections 32-35 are conforming amendments to parks and recreational facilities laws (AS 41.21)

Section 32: Amends AS 41.21.167(a) to add an exclusion for carbon storage under AS 38.05.700–799.

Section 33: Amends AS 41.21.491(d) to include carbon storage in the exception from the mineral estate closure described in AS 41.21.491(a).

Section 34: Amends AS 41.21.502(c) to include carbon storage leasing under AS 38.05.700–799, but prohibits mineral entry under AS 38.05.181–275.

Section 35: Amends AS 41.21.617 to close land described in AS 38.05.700–799 to commercial timber harvest and sale under state land disposal.

Section 36: Adds new subsection AS 44.37.020(d) for DNR to administer storage facilities and stored carbon under AS 41.06.175.

Section 37: Provides for DNR and AOGCC to adopt regulations to implement carbon storage under AS 44.62.

Section 38: Requests a title change for AS 41.06 from “Geothermal Resources” to “Geothermal and Carbon Storage.”

Section 39: Section 37 takes effect immediately.