

40 CFR 145.22(a)(4) – Memorandum of
Agreement

CLASS VI UNDERGROUND INJECTION CONTROL PROGRAM MEMORANDUM OF AGREEMENT

Between The State of Alaska And The United States Environmental Protection Agency Region 10

I. GENERAL

This Memorandum of Agreement (“Agreement”) establishes policies, responsibilities and procedures pursuant to 40 C.F.R. Parts 124, 144, 145, 146, and Section 1421 of the Safe Drinking Water Act (“SDWA” or “the Act”) for the State of Alaska Class VI Underground Injection Control Program (“Class VI UIC program”) as authorized by Part C of the SDWA (P.L. 93-523 as amended; 42 U.S.C. § 300f *et seq.*).

This Agreement is entered into by the State of Alaska and signed by Jessie Chmielowski, Thomas McKay, and Gregory Wilson, Commissioners of the State of Alaska Oil and Gas Conservation Commission (hereafter, “AOGCC”), with the United States Environmental Protection Agency, Region 10 (hereafter “EPA”), and signed by Emma Pokon, Regional Administrator (hereafter, “Regional Administrator”). This Agreement shall become effective when signed by the Regional Administrator.

II. POLICIES AND AGREEMENTS

A. Lead Agency Responsibilities

The AOGCC has primacy for UIC Class II injection wells within the State of Alaska authorized by Section 1425 of the SDWA, 42 U.S.C. § 300h-4.

The AOGCC has State statutory authority to regulate Class VI injection wells under Alaska statutes 41.06.105 – 41.06.210 and is the lead State agency on behalf of the State of Alaska administering the Class VI UIC program as authorized by Section 1422 of the SDWA, 42 U.S.C. § 300h-1. Additionally, the AOGCC will be the State agency that will receive the annual program grant on behalf of the State of Alaska. This Agreement is solely applicable to AOGCC’s UIC Class VI program and does not supersede or otherwise affect the Memorandum of Agreement, fully executed on November 22, 1991, between AOGCC and the EPA regarding AOGCC’s primacy over UIC Class II injection wells within the State of Alaska.

The AOGCC shall coordinate the Class VI UIC program to facilitate communication between the EPA and the AOGCC. The AOGCC is responsible for administering the Class VI UIC program. These responsibilities shall include, but not be limited to, the submission of grant applications, reporting and monitoring results, and annual report requirements.

B. Review and Modifications

This Agreement shall be reviewed annually as part of the annual program grant and State/EPA Agreement (“SEA”) process. The annual program grant and the SEA shall be consistent with this Agreement and may not override this Agreement.

This Agreement may be modified upon the initiative of the AOGCC or the EPA. Modifications must be in writing and must be signed by the AOGCC and the Regional Administrator. Modifications become effective when signed by both parties. Modifications may be made by revision prior to the effective date of this Agreement or subsequently by addenda attached to this Agreement and consecutively numbered, signed, and dated.

C. Conformance with Laws and Regulations

The AOGCC shall administer the Class VI UIC program consistent with the AOGCC’s submission for program approval, this Agreement, the SDWA, current federal policies and regulations, promulgated minimum requirements, priorities established as part of the annually approved state UIC grant, applicable state and federal law, and any separate working agreements entered into with the Regional Administrator as necessary for the full administration of the Class VI UIC program.

Pursuant to 40 C.F.R. § 145.1(g) nothing in this Agreement precludes the AOGCC from adopting or enforcing requirements which are more stringent or more extensive than those required under federal regulations, and if the AOGCC program has a greater scope of coverage than required by Federal law, the additional coverage is not part of the federally approved program.

D. Responsibilities of Parties

Each of the parties has responsibilities to assure that the Class VI UIC requirements are met. The parties agree to maintain a high level of cooperation and coordination between the AOGCC and EPA staffs in a partnership to assure successful and effective administration of the Class VI UIC program. In this partnership, the EPA will provide to the AOGCC necessary technical and policy assistance on program matters.

The EPA is responsible for keeping the AOGCC apprised, in a timely manner, of the meaning and content of the federal guidelines, technical standards, regulations, policy decisions, directives, and any other factors which affect the UIC program.

The AOGCC will carry out the Class VI UIC program as outlined in the Class VI primacy application and any subsequent modifications.

It will be the policy of the EPA and the AOGCC to make the best use of available personnel and funds to prevent duplication of effort and unnecessary delays to the extent allowable by law.

The strategies and priorities for issuance, compliance, monitoring and enforcement of permits, and implementation of technical requirements shall be established in the AOGCC’s UIC Class VI Program Description, the annual SEA, and in subsequent working agreements. If requested by either party, meetings will be scheduled at reasonable intervals between the AOGCC and the EPA to review specific operating procedures, resolve problems, or discuss mutual concerns involving

the administration of the Class VI UIC program.

E. Sharing of Information

The AOGCC shall promptly inform the EPA of any proposed, pending, or enacted modifications to laws, regulations, or guidelines, and any judicial decisions or administrative actions, which might affect the AOGCC program and the AOGCC's authority to administer the Class VI UIC program. The AOGCC shall promptly inform the EPA of any resource allocation changes (for example, personnel budget, equipment, etc.) which might affect the AOGCC's ability to administer the program.

Any information obtained or used by the AOGCC under its Class VI UIC program shall be available to the EPA upon request without restriction. If the information has been submitted to the AOGCC under a claim of confidentiality, the AOGCC must submit that claim to the EPA when providing the EPA such information. Any information obtained from the AOGCC and subject to a claim of confidentiality will be treated in accordance with 40 C.F.R. Part 2, Subpart B.

The EPA shall furnish the AOGCC the information in its files not submitted under a claim of confidentiality which the AOGCC needs to implement its approved Class VI UIC program. The EPA shall furnish to the AOGCC information submitted to the EPA under a claim of confidentiality which the AOGCC needs to implement its approved program subject to conditions in 40 C.F.R. Part 2, Subpart B. The EPA shall disclose permittees' and applicants' confidential business information to the AOGCC pursuant to 40 C.F.R. § 2.209(f). When transferring any confidential business information to the AOGCC under this Agreement, the EPA shall notify the AOGCC via cover sheet that the information has been claimed as confidential business information by the permittee(s) or applicant(s), and the AOGCC hereby agrees to protect any such information to the fullest extent permitted under State of Alaska law.

F. Duty to Revise Program

As stated in 40 C.F.R. § 145.32(e), within 270 days of any amendment to any regulation promulgated at 40 C.F.R. Parts 124, 144, 145 or 146 revising or adding any requirement respecting state UIC programs, the AOGCC shall submit notice to the EPA showing that the UIC Class VI program meets the revised or added requirements.

G. Duration of Agreement

This Agreement will remain in effect until such time as state primacy enforcement responsibility is returned to the EPA by the AOGCC, or withdrawn by the EPA, according to the provisions of 40 C.F.R. §§ 145.33 and 145.34.

H. General Provisions

Nothing in this Agreement is intended to affect any Class VI UIC or program requirement, or any standards or prohibitions established by state or local law respecting underground injection, as long as the state or local requirements are no less stringent than or are deemed equally protective as: (1) any set forth in the federal Class VI UIC regulations; or (2) other requirements or

prohibitions established under SDWA or applicable regulations.

Nothing in this Agreement shall be construed to limit the authority of the EPA to take action pursuant to SDWA Sections 1421, 1422, 1424, 1425, 1426, 1431 or other sections of the SDWA.

This Agreement does not create any right or benefit, substantive or procedural, enforceable by law or equity, by persons who are not party to this agreement, against the AOGCC or the EPA, their officers or employees, or any other person. This Agreement does not direct or apply to any person outside of the AOGCC and the EPA.

III. PERMITTING

A. General

The AOGCC is responsible for all Class VI well permitting procedures as detailed in the approved Class VI UIC Program Description, and pursuant to state and federal laws, rules, and regulations.

The AOGCC shall review and issue Class VI permits under the authority of Alaska statutes 41.06.105 – 41.06.210 and Alaska regulations 20 AAC 25.1000 – 20 AAC 25.1900. Class VI permits issued by the AOGCC shall be in compliance with applicable state and federal requirements.

All Class VI permit proceedings shall meet the public participation requirements at AS 41.06.125, 20 AAC 25.1150, and 20 AAC 25.1320 (c), interstate coordination requirements at 20 AAC 25.1150(b), and permitting procedures at 20 AAC 25.1060 (minimum criteria for siting), 20 AAC 25.1070 (area of review; corrective action), 20 AAC 25.1080 (storage facility permit; required Class VI well permit information), 20 AAC 25.1150 (public hearing; notice; public comment); 20 AAC 25.1210 (Class VI well construction); 20 AAC 25.1250 (testing and monitoring requirements; records of monitoring); 20 AAC 25.1310 (post-injection site care, site closure, monitoring).

B. Class VI Injection Depth Waivers

The AOGCC shall provide all information received through the injection depth waiver application process described in 20 AAC 25.1270 to the Regional Administrator. Based on the information provided, the Regional Administrator shall provide written concurrence or non-concurrence regarding waiver issuance. The AOGCC shall not issue a Class VI injection depth waiver without receipt of written concurrence from the Regional Administrator.

C. Post-Injection Site Care and Site Closure

The AOGCC and the EPA will consult on any alternative post-injection site care timeframes (other than the 50-year default timeframe required by 20 AAC 25.1310 (h)), if an owner or operator can demonstrate during the permitting process that an alternative post-injection site care timeframe is appropriate and ensures non-endangerment of Underground Sources of Drinking Water (“USDWs”).

D. Transfer of Responsibility from the EPA

The Regional Administrator shall transfer from the EPA to the AOGCC any pending permits, applications, and any other information relevant to Class VI UIC program operation not already in the possession of the AOGCC when the AOGCC assumes primacy for the Class VI UIC program.

E. Coordination with the EPA

The EPA and the AOGCC may coordinate when appropriate the processing of permits for facilities or activities that require permits from both the EPA and the AOGCC under different programs.

F. Consolidation of Permit Issuance

The AOGCC and the EPA may agree on provisions for joint processing of permits for facilities or activities which require permits from both the EPA and the AOGCC under different programs. The AOGCC and the EPA may consolidate draft permits, fact sheets, public comment periods and any public hearings on those permits which are jointly processed. The AOGCC shall not, however, proceed with joint processing of permits if this would result in unreasonable delay in the issuance of one or more permits.

G. Compliance Schedule and Reports

The AOGCC agrees to establish compliance schedules in permits where appropriate and to require periodic reporting on compliance with compliance schedules and other permit conditions.

IV. COMPLIANCE MONITORING

A. General

The AOGCC shall operate a timely and effective compliance monitoring system to track compliance with permit conditions and program requirements. For purposes of this Agreement, the terms “compliance monitoring” or “compliance evaluation” shall refer to all efforts associated with determining compliance with Class VI UIC program requirements.

B. Compliance Schedule

The AOGCC agrees to maintain procedures to receive, evaluate, retain and investigate all notices and reports that are required by program regulations. These procedures shall also include the necessary elements to investigate the failure of persons required to submit such notices and reports. The AOGCC shall initiate appropriate compliance actions when required information is not received or when the reports are not submitted.

C. Review of Compliance Reports

The AOGCC shall conduct a timely and substantive review of all such reports to determine compliance status. The AOGCC shall operate a tracking system to determine if: (1) the reports required by program regulations are submitted; (2) the submitted reports are complete and

accurate; and (3) the permit conditions and program requirements are met. The reports and notices shall be evaluated for compliance status in accordance with the AOGCC compliance program and the program requirements.

D. Inspection and Surveillance

The AOGCC agrees to have inspection and surveillance procedures to determine compliance or noncompliance with the applicable requirements of the Class VI UIC program. Surveys or other methods of surveillance shall be utilized to identify persons who have not complied with permit applications or program requirements. Any compilations, index, or inventory obtained for such facilities or activities shall be made available to the Regional Administrator upon request.

The AOGCC shall conduct periodic inspections of the facilities and activities subject to regulatory requirements. These compliance monitoring inspections shall be performed to assess compliance with all Class VI UIC program requirements and include selecting and evaluating a facility's monitoring and reporting program. These inspections shall be conducted to determine compliance or noncompliance, to verify the accuracy of information submitted by operators in reporting forms and monitoring data, and to verify the adequacy of sampling, monitoring, and other methods to provide the information.

E. Authority to Enter

The AOGCC (and other state designees) engaged in compliance monitoring and evaluation shall have the authority to enter any site or premises subject to regulation or to review and copy the records of relevant program operations where such records are kept.

F. Admissibility

Any investigatory inspections shall be conducted, and samples and other information collected, in a manner to provide evidence admissible in an enforcement proceeding or in court.

V. ENFORCEMENT

A. General

The AOGCC is responsible for taking timely and appropriate enforcement action against persons in violation of Class VI program requirements, permit conditions, compliance schedules, technical requirements, and any other UIC program requirements. This includes violations detected by AOGCC or federal inspections.

The AOGCC shall notify the EPA of any enforcement actions taken by the AOGCC. Failure by the AOGCC to initiate appropriate enforcement action against a substantive violation may be the basis for the EPA's determination that the AOGCC has failed to take timely enforcement action. Such a determination may result in the EPA filing an action to enforce the AOGCC's rules consistent with Section 1423 of the SDWA, 42 U.S.C. § 300h-2.

B. Enforcement Mechanisms

The AOGCC shall have the mechanism to restrain immediately and effectively any person engaging in any unauthorized activity or operation, which is endangering or causing damage to public health or the environment as applicable to the program requirements. The AOGCC shall also have the means to sue in courts of competent jurisdiction to prohibit any threatened or continuing violation of any Class VI UIC program requirement. Additionally, the AOGCC shall have the mechanism to access or sue to recover in court civil penalties and criminal remedies as established in AS 41.06.180 and 20 AAC 25.1650.

C. EPA Enforcement

Nothing in this Agreement shall affect the EPA's authority or responsibility to take enforcement actions under Sections 1423 and 1431 of the SDWA, 42 U.S.C. §§ 300h-2 and 300i.

When the AOGCC has a fully approved Class VI UIC program, the EPA will not take enforcement actions without providing prior notice to the AOGCC and otherwise complying with Sections 1423 and 1431 of the SDWA.

D. Assessment of Fines

The AOGCC shall agree to assess civil penalties in amounts appropriate to the violation as required in AS 41.06.180 and 20 AAC 25.1650.

VI. EPA OVERSIGHT

A. General

The EPA shall oversee the AOGCC's administration of the Class VI UIC program on a continuing basis to assure that such administration is consistent with this Agreement, the AOGCC UIC grant application, the SDWA and implementing regulations, and other applicable requirements.

In addition to the specific oversight activities listed in this section, the EPA may from time-to-time request specific information, and the AOGCC shall submit and provide access to files necessary for evaluating the AOGCC's administration of the Class VI UIC program.

B. Immediate Reporting on Noncompliance

The AOGCC shall immediately notify the Regional Administrator by telephone, or otherwise, of any major, imminent hazard to public health resulting from the endangerment of a USDW within the State of Alaska by Class VI well injection.

C. Program Reports

The AOGCC shall submit program reports to the Regional Administrator in accordance with 40 C.F.R. § 144.8. All Class VI program reports shall be submitted to the Regional Administrator in accordance with 40 C.F.R. § 144.8. The reports are to be submitted using the specified 7520 reporting forms and include a narrative.

D. Quarterly Program Reports

The AOGCC shall submit to the Regional Administrator quarterly non-compliance reports as specified in 40 C.F.R. § 144.8(a).

Quarterly reports will be submitted in accordance with the following schedule:

- January, February, March – due May 31
- April, May, June – due Aug. 31
- July, August, September – due Nov. 30
- October, November, December – due Feb. 28

E. Annual Program Reports

The AOGCC shall submit an annual program report as specified by 40 C.F.R. § 144.8(b) to the Regional Administrator sixty (60) days after the end of the calendar year ending December 31.

F. Major Facilities

Major facilities will include: all Class VI Facilities.

G. Aquifer Exemptions

Other than EPA approved aquifer exemption expansions that meet the criteria for exempted aquifers, new aquifer exemptions shall not be issued for Class VI injection activities. Even if an aquifer has not been specifically identified by the AOGCC, it is a USDW if it meets the definition at 20 AAC 25.435 and 20 AAC 25.900 (83).

H. Mechanical Integrity

The AOGCC may allow the use of a test to demonstrate mechanical integrity other than those listed in the approved Class VI UIC Program Description. Any alternative mechanical integrity test must receive written approval from the EPA Administrator prior to implementation and be consistent with the requirements of 20 AAC 25.1240(e).

I. Inspection and Surveillance by the EPA

The EPA may select facilities and activities within the State of Alaska for EPA inspection. The EPA may conduct such inspections jointly with the AOGCC. The AOGCC shall give the EPA adequate notice to participate in any compliance evaluation inspection scheduled by the AOGCC.

The EPA may also choose to conduct inspections independently of the AOGCC’s schedule. In such cases, the EPA shall notify the AOGCC as least seven (7) days before any inspection that EPA determines to be necessary to allow coordination of scheduling and allow joint inspection. However, if an emergency exists, or for some reason it is impossible to give advance notification, the Regional Administrator may waive advance notification to inspect a facility. In keeping with Section 1445(b)(2) of the SDWA, 42 U.S.C. § 300j-4, the AOGCC understands not to inform the person whose property is to be entered of the pending inspection.

J. Annual Performance Evaluation

The EPA shall conduct, at least annually, performance evaluations of the UIC Class VI program using program reports and other requested information to determine UIC Class VI program consistency with the program submission, SDWA applicable regulations, and applicable guidance and policies. The review will not only include a review of financial expenditures but reviews on progress towards program implementation, changes in the program description, and efforts towards progress on program elements.

The EPA shall submit a summary of the evaluation findings to the AOGCC outlining any deficiencies in program performance and recommendations for improving AOGCC operations. The report also might provide guidance for the development of an upcoming grant application. The AOGCC shall have 15 working days from the date of receipt to concur with or comment on the findings and recommendations.

VII. SIGNATURES

IN WITNESS WHEREOF, the parties have executed this Agreement.

Alaska Oil and Gas Conservation Commission:

By Thomas W McKay Digitally signed by Thomas W McKay
Date: 2026.05.21 14:47:50 -08'00'
Thomas W. McKay Date
AOGCC Chair, Commissioner

By Jessie L. Chmielowski Digitally signed by Jessie L. Chmielowski
Date: 2026.05.21 11:08:16 -08'00'
Jessie L. Chmielowski Date
AOGCC Commissioner

By Gregory C Wilson Digitally signed by Gregory C Wilson
Date: 2026.05.21 10:11:04 -08'00'
Gregory C. Wilson Date
AOGCC Commissioner

U.S. Environmental Protection Agency, Region 10:

By _____ Date
Emma Pokon
Regional Administrator