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January 13, 2026

Samantha Coldiron, Special Assistant
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Submitted via Alaska Online Public Notice System and email to samantha.coldiron@alaska.gov

Re: Proposed changes to regulations in Title 20 Chapter 25 of the Alaska Administrative Code dealing with carbon storage as it relates to Class VI wells, and establishing a new Class VI Underground Injection Control program for Alaska

Dear Ms. Coldiron:

The Alaska Center, Alaska Community Action on Toxics, Alaska Wilderness League, Center for Biological Diversity, Cook Inletkeeper, Fairbanks Climate Action Coalition, Native Movement, and Northern Alaska Environmental Center provide the following comments on the Alaska Oil and Gas Conservation Commission's "Notice of Proposed Changes on Carbon Storage and Underground Injection Control Class VI Wells in the Regulations of the Alaska Oil and Gas Conservation Commission."[1] We reiterate and incorporate by reference the scoping comments we previously submitted to Docket Number: R-24-002 concerning the Commission's intent to pursue Class VI primacy for carbon dioxide ("CO_2") injection wells.[2]

As discussed in more detail below, we reiterate that the proposed regulatory changes intended to facilitate Class VI primacy for CO2 injection wells in Alaska would needlessly burden the state's agencies and resources where the state's geology and geography is ill suited for carbon capture and storage ("CCS") projects and the Commission does not have adequate resources or expertise to assume the responsibility of Class VI primacy. For these reasons, we urge the Commission not to move forward with these regulatory changes in support of a Class VI primacy application.

I. The Notice of Proposed Regulatory Changes Does Not Identify Future Funding Sources Necessary for Increased Technical Expertise and Implementation of a New Class VI Permitting Program.

Appendix C-2, "Additional Regulation Notice Information," notes that the initial phases of the regulatory updates facilitating the Commission's application for Class VI primacy were

[1] Alaska Oil and Gas Conservation Commission, *Notice of Proposed Changes on Carbon Storage and Underground Injection Control Class VI Wells in the Regulations of the Alaska Oil and Gas Conservation Commission* (Nov. 25, 2025), https://www.commerce.alaska.gov/web/Portals/18/pub/Events/Public%20Hearings/2026/2026-01-13/2025200100%20Public%20Notice.pdf.

[2] These comments are also attached here for the Commission's convenience.

funded under a 2025 federal grant.[3] However, the notice does not explain how the Commission will fund any future new Class VI permitting program (should EPA grant primacy) and the necessary expansion of technical expertise and inevitable increase in regulatory, oversight and enforcement of such a program. The 2023 fiscal analysis of the legislation which authorized these regulatory changes, HB 50, had noted:

> The amount and timing of revenue to support operations is *not yet known*. In the first year's operations are funded from general funds. Revenues collected in the CSCTF [Carbon Storage Closure Trust Fund] will be used to support the costs of regulating the program incurred by the AOGCC starting in year 2 [i.e., 2025]. The amount of revenue to be collected in the fund is *not known* at this time but is anticipated to be sufficient to support annual operations. Revenue collections are shown in this note as equal to expenditures beginning in FY2025.[4]

Unfortunately, the current notice of regulatory changes does not update or expand upon this scant analysis, and leaves blank the sections of Appendix C-2 discussing "[c]ost of implementation to the state agency."[5] Realistically, the state and Commission will require a significant investment and expenditure in increasing technical expertise in order to effectively implement any Class VI program, should EPA grant Alaska primacy.

Class VI permits are complex and highly technical, covering activities spanning decades, including pre-injection, injection, and post-injection. Typically, EPA takes nearly two years to review and issue a draft Class VI permit.[6] EPA's Class VI permit dashboard reflects this reality, showing that the agency has only issued four permits since the federal Class VI regulations became effective in 2011.[7]

In EPA's own words to Congress, "[geologic storage] is a complex process that is highly dependent on site-specific conditions; therefore, *a robust and comprehensive permit application and permit review process is fundamental* to preventing endangerment of [underground sources

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[3] Alaska Oil and Gas Conservation Commission, *Appendix C-2: Additional Regulation Notice Information* (Nov. 25, 2025), https://www.commerce.alaska.gov/web/Portals/18/pub/Events/Public%20Hearings/2026/2026-01-13/2025200100%20Additional%20Regs%20Notice.pdf.

[4] State of Alaska Department of Commerce, Community and Economic Development, *Fiscal Note: 2023 Legislative Session – Appropriation to Alaska Oil and Gas Conservation Commission for Carbon Storage, HB 50* (March 1, 2023), https://www.akleg.gov/basis/get_documents.asp?session=33&docid=2159#:~:text=FISCAL%20NOTE%20ANALYSIS,space%20ownership%20for%20private%20parties.

[5] *Appendix C-2*, *supra* n.3.

[6] White House Environmental Justice Advisory Council, *Carbon Management Recommendations, Report 2*, at 40 (2024) https://www.epa.gov/system/files/documents/2024-10/whejac-carbon-management-recommendations-october-2024.pdf

[7] Environmental Protection Agency, *Current Class VI Projects Under Review at EPA*, https://www.epa.gov/uic/current-class-vi-projects-under-review-epa (last accessed Jan. 7, 2025).

of drinking water] from these activities."[8] EPA Region 9, for example, hires outside consultants and works with the U.S. Department of Energy's National Energy Technology Lab to assist with its Class VI permit application review process.

The technical expertise to permit Class VI wells is distinct from oil and gas permitting. Compressed CO2 is highly dangerous and has high corrosive potential. As noted by the Pipeline Safety Trust:

> CO2 pipelines are susceptible to ductile fractures, which can, like a zipper, open up and run down a significant length of the pipe, they can release immense amounts of CO2, hurl large sections of pipe, expel pipe shrapnel, and generate enormous craters. Water, notoriously difficult to eliminate from CO2 pipelines, allows the formation of carbonic acid in the pipeline which has a ferocious appetite for carbon steel.[9]

The risks of corrosion and CO2 leaks extend beyond pipelines to include injection wells. As noted earlier in this comment, the nation's first-ever Class VI injection well was recently found to have been leaking CO2 for years due to the corrosion of steel in the well.[10] The company had been using a type of steel called 13 Chrome; EPA has since warned project operators and the three states that have Class VI primacy about 13 Chrome.[11] EPA is now recommending that CCS companies use the more corrosion-resistant Super 25 Chrome, but 25 Chrome is both significantly more expensive and harder to obtain than 13 Chrome.[12] EPA regulations governing Class VI wells require that the CO2 injection materials last for the lifetime of the project and be compatible with all fluids that they are likely to come into contact with.[13]

The need to bring in additional and new technical expertise in order to responsibly assume the review of Class VI permits, as well as the significant cost to do so, is a huge barrier for Alaska. Indeed, the state is reckoning with a financial crisis[14] and executive agencies have been under a statewide hiring freeze since May 2025.[15] The state government also continues to

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[8] Environmental Protection Agency, *EPA Report to Congress: Class VI Permitting* 19 (2022) (emphasis added), https://www.epa.gov/system/files/documents/2022-11/EPA%20Class%20VI%20Permitting%20Report%20to%20Congress.pdf.

[9] Richard B. Kuprewicz, *Accufacts' Perspectives on the State of Federal Carbon Dioxide Transmission Pipeline Safety Regulations as it Relates to Carbon Capture, Utilization, and Sequestration within the U.S., prepared for the Pipeline Safety Trust* (2022), https://pstrust.org/wp-content/uploads/2022/03/3-23-22-Final-Accufacts-CO2-Pipeline-Report2.pdf.

[10] Annie Snider & Ben Lefebvre, *Carbon Storage Projects Hit a Hurdle: Corroding Steel*, E&E NEWS (Oct. 9, 2024), https://subscriber.politicopro.com/article/eenews/2024/10/09/carbon-storage-projects-hit-a-hurdle-corroding-steel-ee-00182889.

[11] *Id.*

[12] *Id.* One ton of 25 Chrome can cost $40 compared to $7 a ton for 13 Chrome. Further, only one steel mill in the U.S. makes 25 Chrome, so the vast majority of the material is imported from mills in Asia, and lead times can be up to a year. *Id.*

[13] 40 C.F.R. §144.83; §144.84; §144.86.

[14] Alaska Legislative Finance Division, The Fiscal Year 2025 Budget: Legislative Fiscal Analyst's Overview of the Governor's Request 7 (2023), https://www.legfin.akleg.gov/Overview/Overview2025.pdf.

[15] Administrative Order No. 358, https://gov.alaska.gov/admin-orders/administrative-order-no-358/.

experience significant issues hiring and retaining employees, including in its payroll division, causing many of the state's employees to be paid late or incorrectly.[16] This payroll issue has compounded other hiring difficulties, including causing the already-understaffed state ferry system to lose workers.[17] Another example of the state's inability to effectively implement and carry out a relatively simple program is the recent fine of $11.9 million imposed by the U.S. Department of Agriculture's Food and Nutrition Service for the state's failure to properly verify eligibility.[18] The state has also repeatedly struggled with backlogs in the Supplemental Nutrition Assistance Program and Heating Assistance Program applications, which have recently had backlogs of 12,000 and 2,000 applications, respectively.[19] While each of these examples relates to programs that are very different than reviewing Class VI permit applications, they demonstrate a pattern of inability to adequately administer relatively simple, albeit high volume, functions. It is irresponsible for the state to pursue authority to administer Class VI permitting decisions and taking on that responsibility without ensuring proper program oversight, technical expertise and implementation would jeopardize the health and safety of Alaska's residents.

II. The Proposed Regulatory Changes Would Not Adequately Protect Underground Sources of Drinking Water.

The proposed regulatory changes to 20 AAC 25.435, entitled "Identification of underground sources of drinking water," would add language stating that new aquifer exemptions will not be issued for Class VI wells.[20] However, this protection is significantly limited by proposed regulatory amendments to 20 AAC 25.442, whereby an existing aquifer exemption for a Class II well can be expanded for the purpose of a Class VI well.[21] This reflects a trend observable throughout the Commission's proposal of piggy-backing Class VI regulatory changes on existing Class II regulations without providing significant distinction between the different well types and their unique risks and characteristics. The Commission must ensure that any regulations dealing with Class VI wells reflect individualized analysis and standards which protect against the unique risks posed by wells with the intended use of long-term geologic storage of CO2.

Further, this proposed regulatory change effectively allows aquifer exemptions for new Class VI wells without any additional oversight, public input or analysis, creating a new and significant threat to underground sources of drinking water from Class VI wells. Should the state obtain primacy over Class VI wells, this would significantly reduce—and effectively eliminate—public involvement, participation and oversight in drinking water protection.

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[16] *See, e.g.,* James Brooks, *Understaffing at Alaska State Payroll Department Causing Widespread Problems*, Alaska Beacon (Aug. 22, 2023), https://alaskabeacon.com/2023/08/22/alaska-state-payroll-department-one-crisis-away-from-workers-going-unpaid/.

[17] *Id.*

[18] Eric Stone, *USDA Fines Alaska $11.9M for Failing to Ensure SNAP Recipients are Eligible*, Alaska Public Media (Jun. 28, 2024), https://alaskapublic.org/2024/06/28/usda-fines-alaska-11-9-million-for-failing-to-ensure-snap-recipients-are-eligible/.

[19] Claire Stremple, *State Lags in Heating Assistance Payments to Alaskans with Low Incomes, Catches up on Food Stamps*, Alaska Beacon (Mar. 5, 2024), https://alaskabeacon.com/briefs/state-lags-in-heating-assistance-payments-to-alaskans-with-low-incomes-catches-up-on-food-stamps/.

[20] https://www.commerce.alaska.gov/web/Portals/18/pub/Events/Public%20Hearings/2026/2026-01-13/2025200100%20Public%20Notice.pdf

[21] *Id.*

Under the existing EPA Class VI permitting program, the federal Safe Drinking Water Act ("SDWA"), which protects such underground sources of drinking water, allows for citizen suits against EPA if it violates any provisions of the statute.[22] While EPA may delegate primary enforcement authority, including for Class VI injection wells, it must ensure that state programs "contain minimum requirements for effective programs to prevent underground injection which endangers drinking water sources."[23] Should the state obtain primacy over Class VI wells, Alaska's fee shifting rule, which allows for unsuccessful plaintiffs to be forced to pay for the prevailing party's fees in addition to their own, chills public interest litigation and is incompatible with the citizen enforcement provisions of the SDWA.[24] This issue could also lead to litigation over the state's application, which would, at best, slow down and complicate the process; for example, litigation related to the SDWA and the enforcement provisions in Louisiana's Class VI primacy framework is ongoing.[25]

III. The Proposed Regulatory Changes Should Establish Mandatory Triggers for Operators to Transition from Class II to Class VI Wells.

The proposed regulatory changes to 20 AAC 25.444, entitled "Transitioning from a Class II well to a Class VI well", would add requirements for when an operator of a Class II well must newly transition to and obtain a Class VI permit, such as "when the primary purpose is the long-term storage of carbon or there is an increased risk to underground sources of drinking water compared to Class II operations."[26] Unfortunately, the proposed regulatory text does not establish mandatory triggers for when a well operator must undertake such a transition from a Class II well permit to a Class VI well permit. The proposed regulatory language explains that the onus is on the well owner or operator to evaluate whether any changes to the well purpose or risks to drinking water exist leaving the fox to guard the henhouse, since there is little to no incentive for well owners/operators to upgrade from less strict Class II permit conditions to a more protective Class VI permit.

Additionally, while the proposed regulatory changes establish factors that the Commission must evaluate when "determin[ing] when the primary purpose of injection is long-term carbon storage or there is an increased risk to underground sources of drinking water compared to Class II operations," the regulations do not establish any mandatory trigger or obligation for the Commission to undertake any such analysis. Leaving this analysis to the Commission's discretion effectively means that there is little, if any, incentive for the state to undertake this analysis, particularly because (should primacy be granted) the other mandatory obligations of a Class VI permitting program, limited staff resources, and lack of technical expertise will take precedence for the state's already overburdened and under resourced regulatory agency.

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[22] 42 U.S.C. § 300j-8.
[23] *Id.* § 300h(b)(1).
[24] Alaska R. Civ. P. 82(b)(3)(F).
[25] *Deep South Center for Environmental. Justice et al v. E.P.A.*, Case No. 24-60084 (5th Cir.) (pending).
[26] *Notice*, *supra* n.1, at 1.

Finally, the proposed regulatory changes establish no public oversight mechanism which would allow the public to seek to enforce an analysis of "when the primary purpose of injection is long-term carbon storage or there is an increased risk to underground sources of drinking water when compared to Class II operations." Not only do the regulations not establish mandatory triggers for when a Class II permit must be transitioned to a Class VI permit but, as discussed above, the state's fee shifting provisions effectively foreclose any citizen enforcement of such regulatory provisions.

IV. Proposed Regulatory Changes in New Title 20, Chapter 25, Article 9, Entitled "Carbon Storage (20 AAC 25.1000 – 20 AAC 25.1900)" Do Not Reflect Best Safety, Monitoring, Emergency Response, Public Engagement and Fiscal Responsibility Practices.

Specific concerns with proposed new Title 20, Chapter 25, Article 9, entitled "Carbon Storage (20 AAC 25.1000 – 20 AAC 25.1900)" are listed in the table below.

Proposed Regulation	Concern
20 AAC 25.1010. Prohibition of movement of fluid into underground sources of drinking water; emergency actions.	- (b) If contaminants are found to be affecting an underground source of drinking water, the Commission should additionally *require* immediate cessation of operations while, not just additional requirements for "construction, corrective action, operation, monitoring, or reporting, including closure of the injection well" - (c) The requirement that the Commission "*may* take emergency action upon receipt of information that a contaminant which is present in or likely to enter a public water system or underground sources of drinking water may present an imminent and substantial endangerment to the health of persons" should be changed to a mandatory "must."
20 AAC 25.1060. Minimum criteria for siting.	- (b) Permissive "may" should be changed to "must" for when the Commissions can require "the storage operator identify and characterize additional zones that will impede vertical fluid movement, are free of faults and fractures that may interfere with containment, allow for pressure dissipation"
20 AAC 25.1070. Area of review; corrective action.	- The proposed regulations should empower members of the public to provide input on the relevant area of review, and the proposed regulations should include specific additional and increased evaluation where there are vulnerable public infrastructure, homes, highways, etc. that could be impacted by any proposed Class VI well and association infrastructure (including pipelines).
20 AAC 25.1100. Draft permit; fact sheet.	- (b), (e), (f) The proposed regulations should make explicit that the public should have the opportunity to comment on any proposed permit approval or denial, and any such fact sheet for a proposed approval must be expeditiously made available to the public.
20 AAC 25.1140. Schedule of compliance.	- (b) In addition to "report[ing] any noncompliance which may endanger health or the environment" to the Commission, the storage operator should be required to make such information immediately available to the public.

	- (c)(13) Public notice for permit comment and hearing proceedings should additionally include direct outreach to members of the public living, working, or recreating within the area of review for the proposed permit
20 AAC 25.1200. Financial responsibility	- (d)(1)(D) The proposed regulations should *not* allow for the discharge of any financial assurances upon commencement of bankruptcy Chapter 11 reorganization proceedings. Such environmental cleanup or remediation obligations should be considered non-monetary mandatory regulatory obligations that are non-dischargeable during bankruptcy reorganization proceedings particularly because reorganization allows for the business to remerge from bankruptcy as a going concern which should be able to bear such obligations under the reorganized entity. - (g), (h) Financial mechanisms allowed to demonstrate financial responsibility should disallow blanket bonding for entities with more than one Class VI well permit, as well as owner/operator self-insurance. Numerous examples in the oil and gas well bonding context have demonstrated that such practices inevitably result in inadequate bond amounts for environmental cleanup and monitoring costs.[27]
20 AAC 25.1260. Emergency and remedial response.	- Any emergency and remedial response plan must include proactive outreach to first-responders to inform of the unique vulnerabilities and risks to human health and safety which surround CO2 leakage – including but not limited to, CO2 flows to low-lying areas, effect on combustion engine rescue equipment, oxygen supplementation equipment, and any other unique hazards first responders may not be aware of concerning CO2 leakage.
20 AAC 25.1310. Post-injection site care; site closure; monitoring timeline.	- (b)(5), (g) The owner/operator should be responsible for post-injection site care and monitoring for at least 50 years, and such liability should not be transferred to the state at any time prior.
20 AAC 25.1410. Modification, revocation and reissuance of permit.	- The public should be given a mandatory right and opportunity to comment and engage in a hearing process for any modification, revocation and reissuance of a permit.

[27] *See, e.g.*, Fluid Mineral Leases and Leasing Process, 89 Fed. Reg. 30,916 (Apr. 23, 2024).

V. Conclusion

Thank you for your careful consideration of our comments and concerns with the proposed changes to regulations in Title 20 Chapter 25 of the Alaska Administrative Code dealing with carbon storage as it relates to Class VI wells and establishing a new Class VI Underground Injection Control program for Alaska. Given the many problems associated with CCS and state-level primacy, we urge the Commission not to move forward with these regulatory changes in support of a Class VI primacy application. And if the Commission does still choose to move forward with these regulatory changes, we urge you to strengthen the proposed Class VI regulations to better protect Alaskans from the myriad risks associated with this undertaking. We thank you for considering these comments.

Sincerely,

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