

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: Environmental Preservation Committee

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BILL: CS/SB 2708

INTRODUCER: Environmental Preservation Committee and Senator Wise

SUBJECT: Petroleum & Natural Gas Exploration and Production

DATE: April 19, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	_____	_____	<u>DS</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

The committee substitute requires the Department of Environmental Protection (DEP) to contract for a study to evaluate the exposure risks and potential adverse effects of hurricane wind and storm surge on field-erected, aboveground storage tank systems, including tanks, piping, pumps, and related components, at bulk product facilities. Specifies what the scope of the study shall include. Requires the DEP to report the findings and recommendations of the study to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2008. Allows the DEP to use funds from the Inland Protection Trust Fund to contract for the study. Requires the DEP to compile and review existing data and information relating to environmental risks associated with oil and natural gas exploration and production in the eastern Gulf of Mexico currently subject to federal moratoria. Requires the DEP to report findings of the evaluation to the Governor, President of the Senate, and Speaker of the House of Representatives within 120 days after the effective date of this committee substitute.

## II. Present Situation:

### Bulk Storage of Fuels

Chapter 206, F.S., provides for the licensure of persons transporting motor fuel in this state and the bulk storage of motor fuel in this state. Chapter 206, F.S., further provides for the taxation of motor fuel and diesel fuel used on highways. Also, every barrel of pollutant produced in or imported into Florida is subject to the pollutant tax provided in Part IV of ch. 206, F.S.

Section 206.022, F.S., provides that every terminal operator in this state must be licensed by the Department of Revenue (DOR) to engage in such business. A "terminal" is a storage and distribution facility for taxable motor or diesel fuel, supplied by pipeline or marine vessel, that has the capacity to receive and store a bulk transfer of taxable motor or diesel fuel, including a

loading rack through which petroleum products are physically removed into tanker trucks or rail cars, and that is registered with the Internal Revenue Service as a terminal.<sup>1</sup>

In order to obtain a license from the DOR, the person must provide certain information under oath. The annual fee for this license is \$30.

Many of these terminal facilities are located in the coastal areas of the state, making them vulnerable to storm events such as hurricanes.

The Department of Environmental Protection's (DEP's) rules pertaining to Aboveground Storage Tanks require aboveground storage tank systems to have secondary containment systems that are impervious to the regulated substance and able to withstand deterioration from external environmental conditions and capable of containing the regulated substances for at least 30 days. The dike field areas with secondary containment shall contain a minimum of 110 percent of the maximum capacity of the tank or of the largest single-walled tank within the dike field area.<sup>2</sup>

### **Oil and Gas Exploration**

The Outer Continental Shelf (OCS) consists of the submerged lands, subsoil, and seabed, lying between the seaward extent of the States' jurisdiction and the seaward extent of Federal jurisdiction.<sup>3</sup> The state jurisdiction for Florida is defined as 3 marine leagues (9 nautical miles) seaward from the baseline from which the breadth of the territorial sea is measured.<sup>4</sup>

The Outer Continental Shelf is a significant source of oil and gas for the nation's energy supply. Because of growing concerns about limited fuel supplies and supply disruptions, renewed interest has been expressed to allow additional drilling for oil and gas in the Gulf of Mexico, perhaps off Florida's coast. The Minerals Management Service (a bureau in the U.S. Department of Interior) manages the nation's natural gas, oil, and other mineral resources on the OCS. The Gulf of Mexico OCS Region consists of three planning areas along the Gulf Coast – the Western, Central, and Eastern Gulf of Mexico Planning Areas. The Eastern Gulf of Mexico Planning Area extends along the Gulf's northeastern coast from Baldwin County, Alabama, southward to the Florida Keys.<sup>5</sup>

Currently, Congress and past presidents have placed moratoria on offshore drilling and development on the OCS. Included in the moratoria is the Eastern Gulf of Mexico. There have been recent attempts in Congress to remove these moratoria.

Pursuant to s. 253.03, F.S., lands vested in the Board of Trustees of the Internal Improvement Trust Fund (Trustees) include:

- All swamp and overflowed lands held by the state or which may inure to the state;
- All lands owned by the state by right of its sovereignty;
- All internal improvement lands proper;

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<sup>1</sup> s. 206.01(18), F.S.

<sup>2</sup> Rule 62-762.501, Florida Administrative Code

<sup>3</sup> [www.mms.gov/aboutmms/ocsdef.htm](http://www.mms.gov/aboutmms/ocsdef.htm)

<sup>4</sup> Id.

<sup>5</sup> [www.gomr.mms.gov/homepg/offshore/egom/eastern.html](http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html)

- All tidal lands;
- All lands covered by shallow waters of the ocean or gulf, or bays or lagoons thereof, and all lands owned by the state covered by fresh water;
- All parks, reservations, or lands or bottoms set aside in the name of the state, excluding lands held for transportation facilities, and transportation corridors and canal rights-of-way; and all lands which have accrued, or which may accrue, to the state from any source, excluding lands held for transportation facilities and transportation corridors and canal rights-of-way, spoil areas, or borrow pits or any land, the title to which is vested or may become vested in any port authority, flood control district, water management district, or navigation district or agency created by any general or special act.

With respect to administering, controlling, and managing sovereignty submerged lands, the Trustees may adopt rules governing all uses of sovereignty submerged lands by vessels, floating homes, or any other watercraft. The rules are limited to regulations for anchoring, mooring, or otherwise attaching to the bottom; the establishment of anchorages; and the discharge of sewage, pumpout requirements, and facilities associated with anchorages. The rules may not interfere with commerce or the transitory operation of vessels through navigable water, but shall control the use of sovereignty submerged lands as a place of business or residence.

Section 253.61, F.S., expressly prohibits the Trustees from granting any “oil or natural gas lease” on state-owned submerged lands off the State’s west coast. A similar provision in s. 377.24, F.S., prohibits the DEP from issuing a permit “to drill a well in search of oil or gas” on the same state-owned submerged lands.

### III. Effect of Proposed Changes:

**Section 1** requires the DEP to contract for a study that evaluates the exposure, risk, and potential adverse impacts of hurricane wind and storm surge on field-erected aboveground storage tank systems, including tanks, piping, pumps, and related components, at bulk product facilities as defined in s. 376.031(3), F.S. The scope of the study shall include, but is not limited to:

- Evaluating the frequency, strength, and probability estimates for hurricane winds and storm surge on the coastal areas of the state where existing bulk product facilities are located and where new bulk product facilities are likely to be constructed.
- Evaluating the need and timing for requirements for the establishment of minimum ballast levels for field-erected, aboveground storage tanks at bulk product facilities based on the frequency, strength, and probability estimates for hurricane winds and storm surge, and based on levels calculated by a professional engineer specific to each individual field-erected, aboveground storage tank, taking into account the type of tank, the type of product stored, tank diameter, tank height, and other relevant factors.
- Evaluating the need and feasibility for requirements for temporary and permanent anchoring systems.
- Evaluating the need for potential siting considerations or engineering mitigation that would prevent or limit the installation of new field-erected, aboveground storage tank systems at bulk product facilities in areas that are potentially high-risk areas for hurricane

- winds and storm surge, unless the systems are designed and engineered to withstand hurricane winds and storm surge.
- Identifying all current and proposed industry standards for professionally engineered dike fields surrounding field-erected, aboveground storage tanks at bulk product facilities, including standards for materials and designs that will withstand hurricane winds and storm surges yet allow access for emergency firefighting vehicles in accordance with industry reference standards contained in the National Fire Protection Association publication NFPA No. 30.

The study must also include recommendation for changes, if needed, to aboveground storage tank system laws and agency rules in order to decrease damage from hurricanes and improve recovery of field-erected, aboveground storage tank systems after storm damage. All recommendations must be accompanied by a cost-benefit analysis which is to include:

- The costs for modifying existing field-erected, aboveground storage tank systems and dike fields, and the costs associated with new construction of field-erected, aboveground storage tank systems and dike fields, to meet any proposed new requirements.
- The potential adverse effect on petroleum inventory capacity in the state resulting from any proposed new requirements. All industry segments with field-erected, aboveground storage tanks must be included in the petroleum inventory capacity analysis.

The DEP must report the findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by March 1, 2008.

The DEP may use up to \$250,000 from the Inland Protection Trust Fund for the 2006-2007 and 2007-2008 fiscal years for the cost of the study.

**Section 2** requires the DEP to compile and review existing data and information to evaluate the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria. The DEP shall immediately request from the appropriate state agencies and private research institutes all available data and information necessary to complete this task. The appropriate state agencies shall submit the data and information to the department at the earliest possible date, and private research institutes are encouraged to submit relevant data and information to the maximum extent practicable. The DEP's effort shall include data and information available through appropriate federal executive branch agencies. To the maximum extent practicable, the DEP's efforts shall take into consideration current technologies for controlling discharges from oil and gas exploration rigs and production platforms and shall include, but not be limited to:

- Evaluating the probability of a discharge from oil and gas exploration rigs and production platforms.
- Evaluating the magnitude of any probable discharge from oil and gas exploration rigs and production platforms.
- Evaluating the Gulf of Mexico currents and circulation patterns and the likelihood of any probable discharge reaching the coastal waters and shorelines of the state.

- Evaluating the environmental impacts of any probable discharge on the fish and wildlife resources in the coastal waters of the state.

The DEP is required to report the findings of the evaluation to the Governor, the President of the Senate, and the Speaker of the House of Representatives within 120 days after the effective date of this committee substitute.

**Section 3** provides that the committee substitute will take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

This committee substitute does not require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The DEP is authorized to use up to \$250,000 from the Inland Protection Trust Fund to contract for the study that evaluates the exposure risk and potential adverse impacts of hurricane wind and storm surge on field-erected aboveground storage tank systems, including tanks, piping, pumps, and related components, at bulk product facilities.

The evaluation of the existing data and information relating to the environmental risks from all activities associated with the possible future exploration for and production of oil and natural gas in the eastern Gulf of Mexico currently subject to federal moratoria will be conducted by the DEP using existing staff and financial resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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## **VIII. Summary of Amendments:**

None.

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