

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Eagle offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. This act may be cited as the Florida
8 Underground Natural Gas Storage Act.

9 Section 2. Subsection (7) is added to section 211.02,
10 Florida Statutes, to read:

11 211.02 Oil production tax; basis and rate of tax; tertiary
12 oil and mature field recovery oil.--An excise tax is hereby
13 levied upon every person who severs oil in the state for sale,
14 transport, storage, profit, or commercial use. Except as
15 otherwise provided in this part, the tax is levied on the basis
16 of the entire production of oil in this state, including any
17 royalty interest. Such tax shall accrue at the time the oil is
18 severed and shall be a lien on production regardless of the
19 place of sale, to whom sold, or by whom used, and regardless of
20 the fact that delivery of the oil may be made outside the state.

Amendment No.1

21 (7) As used in this section, the term oil does not include
22 gas-phase hydrocarbons that are transported into the state,
23 injected in the gaseous phase into a natural gas storage
24 facility permitted under part I of chapter 377, and later
25 recovered as a liquid hydrocarbon.

26 Section 3. Subsection (6) is added to section 211.025,
27 Florida Statutes, to read:

28 211.025 Gas production tax; basis and rate of tax.—An
29 excise tax is hereby levied upon every person who severs gas in
30 the state for sale, transport, profit, or commercial use.
31 Except as otherwise provided in this part, the tax shall be
32 levied on the basis of the entire production of gas in this
33 state, including any royalty interest. Such tax shall accrue at
34 the time the gas is severed and shall be a lien on production
35 regardless of the place of sale, to whom sold, or by whom used
36 and regardless of the fact that delivery of the gas may be made
37 outside the state.

38 (6) This section applies only to native gas as defined in
39 s. 377.19.

40 Section 4. Subsection (36) of section 376.301, Florida
41 Statutes, is amended to read:

42 376.301 Definitions of terms used in ss. 376.30-376.317,
43 376.70, and 376.75.--When used in ss. 376.30-376.317, 376.70,
44 and 376.75, unless the context clearly requires otherwise, the
45 term:

46 (36) "Pollutants" includes any product as defined in s.
47 377.19~~(11)~~, pesticides, ammonia, chlorine, and derivatives
48 thereof, excluding liquefied petroleum gas.

Amendment No.1

49 Section 5. Section 377.06, Florida Statutes, is amended to
50 read:

51 377.06 Public policy of state concerning natural resources
52 of oil and gas. It is hereby declared ~~to be~~ the public policy
53 of this ~~the~~ state to conserve and control the natural resources
54 of oil and gas in this ~~said~~ state, and the products made from
55 oil and gas in this state therefrom; to prevent waste of ~~said~~
56 natural resources; to provide for the protection and adjustment
57 of the correlative rights of the owners of the land in which the
58 ~~wherein said~~ natural resources lie, of and the owners and
59 producers of oil and gas resources and the products made from
60 oil and gas therefrom, and of others interested in these
61 resources and products therein; to safeguard the health,
62 property, and public welfare of the residents ~~citizens~~ of this
63 ~~said~~ state and other interested persons and for all purposes
64 indicated by the provisions in this section herein. Further, it
65 is declared that underground storage of natural gas is in the
66 public interest because underground storage promotes
67 conservation of natural gas; makes gas more readily available to
68 the domestic, commercial, and industrial consumers of this
69 state; and allows the accumulation of large quantities of gas in
70 reserve for orderly withdrawal during emergencies or periods of
71 peak demand. It is not the intention of this section to limit,
72 ~~or~~ restrict, or modify in any way the provisions of this law.

73 Section 6. Section 377.18, Florida Statutes, is amended
74 to read:

75 377.18 Common sources of oil and gas.--All common sources
76 of supply of oil or native ~~and~~ gas ~~or either of them~~ shall have

Amendment No.1

77 the production ~~therefrom~~ controlled or regulated in accordance
78 with the provisions of this law.

79 Section 7. Section 377.19, Florida Statutes, is reordered
80 and amended to read:

81 377.19 Definitions.--As used ~~Unless the context otherwise~~
82 ~~requires, the words defined in this section shall have the~~
83 ~~following meanings when found in ss. 377.06, 377.07, and 377.10~~
84 ~~377.40, the term:~~

85 ~~(3)(1)~~ "Division" means the Division of Resource
86 Management of the Department of Environmental Protection.

87 ~~(28)(2)~~ "State" means the State of Florida.

88 ~~(20)(3)~~ "Person" means a ~~any~~ natural person, corporation,
89 association, partnership, receiver, trustee, guardian, executor,
90 administrator, fiduciary, or representative of any kind.

91 ~~(15)(4)~~ "Oil" means crude petroleum oil and other
92 hydrocarbons, regardless of gravity, which are produced at the
93 well in liquid form by ordinary production methods, and which
94 are not the result of condensation of gas after it leaves the
95 reservoir.

96 (5) "Gas" means all natural gas, including casinghead
97 gas, and all other hydrocarbons not defined as oil in subsection
98 (4).

99 ~~(21)(6)~~ "Pool" means an underground reservoir containing
100 or appearing to contain a common accumulation of oil or gas or
101 both. Each zone of a general structure which is completely
102 separated from any other zone on the structure is considered a
103 separate pool as used herein.

104 ~~(4)(7)~~ "Field" means the general area that ~~which~~ is

Amendment No.1

105 underlaid, or appears to be underlaid, by at least one pool. The
106 ~~term, and field~~ includes the underground reservoir, or
107 reservoirs, containing oil or gas, or both. The terms ~~words~~
108 "field" and "pool" mean the same thing if ~~when~~ only one
109 underground reservoir is involved; however, the term "field,"
110 unlike the term "pool," may relate to two or more pools.

111 (19) ~~(8)~~ "Owner" means the person who has the right to
112 drill into and to produce from any pool and to appropriate the
113 production ~~either~~ for the person or for the person and another,
114 or others.

115 (22) ~~(9)~~ "Producer" means the owner or operator of a well
116 or wells capable of producing oil or gas, or both.

117 (31) ~~(10)~~ "Waste," in addition to its ordinary meaning,
118 means physical waste as that term is generally understood in
119 the oil and gas industry. The term "waste" includes:

120 (a) The inefficient, excessive, or improper use or
121 dissipation of reservoir energy; and the locating, spacing,
122 drilling, equipping, operating, or producing of any oil or gas
123 well or wells in a manner that ~~which~~ results, or tends to
124 result, in reducing the quantity of oil or gas ultimately to be
125 stored or recovered from any pool in this state.

126 (b) The inefficient storing of oil; and the locating,
127 spacing, drilling, equipping, operating, or producing of any oil
128 or gas well or wells in a manner that causes, or tends ~~causing,~~
129 ~~or tending~~ to cause, unnecessary or excessive surface loss or
130 destruction of oil or gas.

131 (c) The producing of oil or gas in ~~such~~ a manner that
132 causes ~~as to cause~~ unnecessary water channeling or coning.

Amendment No.1

133 (d) The operation of any oil well or wells with an
134 inefficient gas-oil ratio.

135 (e) The drowning with water of any stratum or part
136 thereof capable of producing oil or gas.

137 (f) The underground waste, however caused and whether or
138 not defined, which does not include seepage or migration of
139 injected nonnative gas from a natural gas storage reservoir.

140 (g) The creation of unnecessary fire hazards.

141 (h) The escape into the open air, from a well producing
142 both oil and gas, of gas in excess of the amount that ~~which~~ is
143 necessary in the efficient drilling or operation of the well.

144 (i) The use of gas for the manufacture of carbon black.

145 (j) The unnecessary escape into the air of ~~Permitting~~ gas
146 produced from a gas well ~~to escape into the air.~~

147 (k) The abuse of the correlative rights and opportunities
148 of each owner of oil and gas in a common reservoir due to
149 nonuniform, disproportionate, and unratable withdrawals, causing
150 undue drainage between tracts of land.

151 ~~(23)-(11)~~ "Product" means a ~~any~~ commodity made from oil or
152 gas and includes refined crude oil, crude tops, topped crude,
153 processed crude petroleum, residue from crude petroleum,
154 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,
155 residuum, gas oil, casinghead gasoline, natural gas gasoline,
156 naphtha, distillate, condensate, gasoline, waste oil, kerosene,
157 benzine, wash oil, blended gasoline, lubricating oil, blends or
158 mixtures of oil with one or more liquid products or byproducts
159 derived from oil or gas, and blends or mixtures of two or more
160 liquid products or byproducts derived from oil or gas, whether

Amendment No.1

161 hereinabove enumerated or not.

162 ~~(8)-(12)~~ "Illegal oil" means oil that ~~which~~ has been
163 produced within the state from any well or wells in excess of
164 the amount allowed by rule, regulation, or order of the
165 division, as distinguished from oil produced within the state
166 from a well not producing in excess of the amount so allowed,
167 which is "legal oil."

168 ~~(7)-(13)~~ "Illegal gas" means gas that ~~which~~ has been
169 produced within the state from any well or wells in excess of
170 the amount allowed by any rule, regulation, or order of the
171 division, as distinguished from gas produced within the State of
172 Florida from a well not producing in excess of the amount so
173 allowed, which is "legal gas."

174 ~~(9)-(14)~~ "Illegal product" means a ~~any~~ product of oil or
175 gas, any part of which was processed or derived, in whole or in
176 part, from illegal gas or illegal oil or from any product
177 thereof, as distinguished from "legal product," which is a
178 product processed or derived to no extent from illegal oil or
179 illegal gas.

180 ~~(24)-(15)~~ "Reasonable market demand" means the amount of
181 oil reasonably needed for current consumption, together with a
182 reasonable amount of oil for storage and working stocks.

183 ~~(30)-(16)~~ "Tender" means a permit or certificate of
184 clearance for the transportation or the delivery of oil, gas, or
185 products, approved and issued or registered under the authority
186 of the division.

187 ~~(17) The use of the word "and" includes the word "or"~~
188 ~~and the use of "or" includes "and," unless the context~~

Amendment No.1

189 ~~clearly requires a different meaning, especially with respect to~~
190 ~~such expressions as "oil and gas" or "oil or gas."~~

191 ~~(32)-(18)~~ "Well site" means the general area around a
192 well, which area has been disturbed from its natural or existing
193 condition, as well as the drilling or production pad, mud and
194 water circulation pits, and other operation areas necessary to
195 drill for or produce oil or gas, or to inject gas into and
196 recover gas from a natural gas storage facility.

197 ~~(17)-(19)~~ "Oil and gas administrator" means the State
198 Geologist.

199 ~~(18)-(20)~~ "Operator" means the entity who:

200 (a) Has the right to drill and to produce a well; or

201 (b) As part of a natural gas storage facility, injects, or
202 is engaged in the work of preparing to inject, gas into a
203 natural gas storage reservoir; or stores gas in, or removes gas
204 from, a natural gas storage reservoir.

205 ~~(1)-(21)~~ "Completion date" means the day, month, and year
206 that a new productive well, a previously shut-in well, or a
207 temporarily abandoned well is completed, repaired, or
208 recompleted and the operator begins producing oil or gas in
209 commercial quantities.

210 ~~(26)-(22)~~ "Shut-in well" means an oil or gas well that has
211 been taken out of service for economic reasons or mechanical
212 repairs.

213 ~~(29)-(23)~~ "Temporarily abandoned well" means a permitted
214 well or wellbore that has been abandoned by plugging in a manner
215 that allows reentry and redevelopment in accordance with oil or
216 gas rules of the Department of Environmental Protection.

Amendment No.1

217 (14)~~(24)~~ "New field well" means an oil or gas well
218 completed after July 1, 1997, in a new field as designated by
219 the Department of Environmental Protection.

220 (6)~~(25)~~ "Horizontal well" means a well completed with the
221 wellbore in a horizontal or nearly horizontal orientation within
222 10 degrees of horizontal within the producing formation.

223 (2) "Department" means the Department of Environmental
224 Protection.

225 (10) "Lateral storage reservoir boundary" means the
226 projection up to the land surface of the maximum horizontal
227 extent of the gas volume contained in a natural gas storage
228 reservoir.

229 (11) "Native gas" means gas that occurs naturally within
230 this state and does not include gas produced outside the state,
231 transported to this state, and injected into a permitted natural
232 gas storage facility.

233 (12) "Natural gas storage facility" means an underground
234 reservoir from which oil or gas have previously been produced
235 and which is used or to be used for the underground storage of
236 natural gas, and any surface or subsurface structure,
237 infrastructure, right, or appurtenance necessary or useful in
238 the operation of the facility for the underground storage of
239 natural gas, including any necessary or reasonable reservoir
240 protective area as designated for the purpose of ensuring the
241 safe operation of the storage of natural gas or protecting the
242 natural gas storage facility from pollution, invasion, escape,
243 or migration of gas, or any subsequent extension thereof. The
244 term does not mean a transmission, distribution, or gathering

Amendment No.1

245 pipeline or system that is not used primarily as integral piping
246 for a natural gas storage facility.

247 (13) "Natural gas storage reservoir" means a pool or
248 field from which oil or gas have previously been produced and
249 which is suitable for or capable of being made suitable for the
250 injection, storage, and recovery of gas.

251 (16) "Oil and gas" has the same meaning as the term "oil
252 or gas."

253 (25) "Reservoir protective area" means the area extending
254 up to and including 2,000 feet surrounding a natural gas lateral
255 storage reservoir boundary.

256 (27) "Shut-in bottom hole pressure" means the pressure at
257 the bottom of a well when all valves are closed and no oil or
258 gas has been allowed to escape for at least 24 hours.

259 Section 8. Subsection (1) of section 377.21, Florida
260 Statutes, is amended to read:

261 377.21 Jurisdiction of division.--

262 (1) The division shall have jurisdiction and authority
263 over all persons and property necessary to administer and
264 enforce effectively the provisions of this law and all other
265 laws relating to the conservation of oil and gas or to the
266 storage of gas in and recovery of gas from natural gas storage
267 reservoirs.

268 Section 9. Subsection (2) of section 377.22, Florida
269 Statutes, is amended, and subsection (3) is added to that
270 section, to read:

271 377.22 Rules and orders.--

272 (2) The department shall issue orders and adopt rules

Amendment No.1

273 pursuant to ss. 120.536~~(1)~~ and 120.54 to implement and enforce
274 the provisions of this chapter. Such rules and orders shall
275 ensure that all precautions are taken to prevent the spillage of
276 oil or any other pollutant in all phases of the drilling for,
277 and extracting of, oil, gas, or other petroleum products, or
278 during the injection of gas into and recovery of gas from a
279 natural gas storage reservoir. The department shall revise such
280 rules from time to time as necessary for the proper
281 administration and enforcement of this chapter. Rules adopted
282 and orders issued in accordance with this section are ~~shall be~~
283 for, but ~~shall~~ not ~~be~~ limited to, the following purposes:

284 (a) To require the drilling, casing, and plugging of
285 wells to be done in such a manner as to prevent the pollution of
286 the fresh, salt, or brackish waters or the lands of the state
287 and to protect the integrity of natural gas storage reservoirs.

288 (b) To prevent the alteration of the sheet flow of water
289 in any area.

290 (c) To require that appropriate safety equipment be
291 installed to minimize the possibility of an escape of oil or
292 other petroleum products in the event of accident, human error,
293 or a natural disaster during drilling, casing, or plugging of
294 any well and during extraction operations.

295 (d) To require the drilling, casing, and plugging of
296 wells to be done in such a manner as to prevent the escape of
297 oil or other petroleum products from one stratum to another.

298 (e) To prevent the intrusion of water into an oil or gas
299 stratum from a separate stratum, except as provided by rules of
300 the division relating to the injection of water for proper

Amendment No.1

301 reservoir conservation and brine disposal.

302 (f) To require a reasonable bond, or other form of
303 security acceptable to the department, conditioned upon the
304 performance of the duty to plug properly each dry and abandoned
305 well and the full and complete restoration by the applicant of
306 the area over which geophysical exploration, drilling, or
307 production is conducted to the similar contour and general
308 condition in existence prior to such operation.

309 (g) To require and carry out a reasonable program of
310 producing or injecting wells, or monitoring or inspection of all
311 drilling operations ~~or producing wells~~, including regular
312 inspections by division personnel.

313 (h) To require the making of reports showing the location
314 of all oil and gas wells; the making and filing of logs; the
315 taking and filing of directional surveys; the filing of
316 electrical, sonic, radioactive, and mechanical logs of oil and
317 gas wells; if taken, the saving of cutting and cores, the cuts
318 of which shall be given to the Bureau of Geology; and the making
319 of reports with respect to drilling and production records.
320 However, such information, or any part thereof, at the request
321 of the operator, shall be exempt from the provisions of s.
322 119.07(1) and held confidential by the division for a period of
323 1 year after the completion of a well.

324 (i) To prevent wells from being drilled, operated, or
325 produced in such a manner as to cause injury to neighboring
326 leases, ~~or~~ property, or natural gas storage reservoirs.

327 (j) To prevent the drowning by water of any stratum, or
328 part thereof, capable of producing oil or gas in paying

Amendment No.1

329 quantities and to prevent the premature and irregular
330 encroachment of water which reduces, or tends to reduce, the
331 total ultimate recovery of oil or gas from any pool.

332 (k) To require the operation of wells with efficient gas
333 oil ratio, and to fix such ratios.

334 (l) To prevent "blowouts," "caving," and "seepage," in
335 the sense that conditions indicated by such terms are generally
336 understood in the oil and gas business.

337 (m) To prevent fires.

338 (n) To identify the ownership of all oil or gas wells,
339 producing leases, refineries, tanks, plants, structures, and
340 storage and transportation equipment and facilities.

341 (o) To regulate the "shooting," perforating and chemical
342 treatment of wells.

343 (p) To regulate secondary recovery methods, including the
344 introduction of gas, air, water, or other substance into
345 producing formations.

346 (q) To regulate gas cycling operations.

347 (r) To regulate the storage and recovery of gas injected
348 into natural gas storage facilities.

349 (s)~~(r)~~ If necessary for the prevention of waste, as
350 herein defined, to determine, limit, and prorate the production
351 of oil or gas, or both, from any pool or field in the state.

352 (t)~~(s)~~ To require, either generally or in or from
353 particular areas, certificates of clearance or tenders in
354 connection with the transportation or delivery of oil or gas, or
355 any product.

356 (u)~~(t)~~ To regulate the spacing of wells and to establish

Amendment No.1
drilling units.

(v)~~(u)~~ To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w)~~(v)~~ To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x)~~(w)~~ To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y)~~(x)~~ To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(3) Notwithstanding the grant of rulemaking authority in this section, a regulatory action taken by the department, including, but not limited to, the receipt and processing of permit applications or the issuance of permits, may not be deemed invalid solely because the department has not yet adopted rules regarding such regulatory action.

Section 10. Subsections (1) and (2) of section 377.24, Florida Statutes, are amended to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.--

(1) Before drilling a any well in search of oil or gas, or before storing gas in or recovering gas from a natural gas storage reservoir shall be drilled, the person who desires desiring to drill, store, or recover oil or gas the same shall notify the division upon such form as it may prescribe and shall

Amendment No.1

385 pay a reasonable fee set by rule of the department not to exceed
386 the actual cost of processing and inspecting for each well or
387 reservoir. The drilling of any well and the storing and
388 recovering of gas are ~~is hereby~~ prohibited until such notice is
389 given, the ~~and such~~ fee is ~~has been~~ paid, and the permit is
390 granted.

391 (2) An ~~Each~~ application for the drilling of a well in
392 search of oil or gas, or for the storing of gas in and
393 recovering of gas from a natural gas storage reservoir, in this
394 state must ~~shall~~ include the address of the residence of the
395 applicant, or applicants ~~each applicant,~~ which must ~~address~~
396 ~~shall~~ be the address of each person involved in accordance with
397 the records of the Division of Resource Management until such
398 address is changed on the records of the division after written
399 request.

400 Section 11. Section 377.2407, Florida Statutes, is created
401 to read:

402 377.2407 Natural gas storage facility permit application
403 to inject gas into and recover gas from a natural gas storage
404 reservoir.--

405 (1) Before drilling a well to inject gas into and recover
406 gas from a natural gas storage reservoir, the person who desires
407 to conduct such operation shall apply to the department in the
408 manner described in this section or using such form as the
409 department may prescribe and shall pay a reasonable fee for
410 processing to obtain a natural gas storage facility permit.

411 (2) Each application must contain:

412 (a) A detailed, three-dimensional description of the

Amendment No.1

413 natural gas storage reservoir, including geologic-based
414 descriptions of the reservoir boundaries, and the horizontal and
415 vertical dimensions.

416 (b) A geographic description of the lateral reservoir
417 boundary.

418 (c) A description and location of all injection, recovery,
419 withdrawal only, and observation wells, including casing and
420 cementing plans for each well.

421 (d) A description of the reservoir protective area.

422 (e) Information demonstrating that the proposed natural
423 gas storage reservoir is suitable for the storage and recovery
424 of gas.

425 (f) Information identifying all known abandoned or active
426 wells within the natural gas storage facility.

427 (g) A field-monitoring plan that requires, at a minimum,
428 monthly field inspections of all wells that are part of the
429 natural gas storage facility.

430 (h) A monitoring and testing plan for the well integrity.

431 (i) A well inspection plan that requires, at a minimum,
432 the inspection of all wells that are part of the natural gas
433 storage facility and plugged wells within the natural gas
434 storage facility boundary.

435 (j) A casing inspection plan.

436 (k) A spill prevention and response plan.

437 (l) A well spacing plan.

438 (m) An operating plan for the natural gas storage
439 reservoir, which must include gas capacities, anticipated
440 operating conditions, and maximum storage pressure.

Amendment No.1

441 (n) A gas migration response plan.

442 (3) Each application may require additional information
443 that is deemed necessary to permit the development of wells;
444 drilling of wells; and operation of exploratory investigation,
445 injection of gas into and recovery of gas from reservoirs,
446 withdrawal of water through withdrawal only wells, and
447 monitoring of wells. Each well may be authorized under the
448 natural gas storage facility permit subject to each well
449 individually satisfying applicable well construction and
450 operation criteria under this part.

451 Section 12. Subsections (4) and (5) are added to section
452 377.241, Florida Statutes, to read:

453 377.241 Criteria for issuance of permits.--The division,
454 in the exercise of its authority to issue permits as hereinafter
455 provided, shall give consideration to and be guided by the
456 following criteria:

457 (4) For activities and operations concerning a natural gas
458 storage facility, the nature, structure, and proposed use of the
459 natural gas storage reservoir is suitable for the storage and
460 recovery of gas without adverse effect to public health or
461 safety or the environment.

462 (5) No permit shall be issued for a natural gas storage
463 facility that includes a natural gas storage reservoir that is
464 located in any aquifer containing water with a total dissolved
465 solids concentration of 10,000 mg/l or less, in any offshore
466 location in the Gulf of Mexico, the Straits of Florida, or the
467 Atlantic Ocean, or an offshore salt dome.

468 Section 13. Subsection (3) of section 377.242, Florida

Amendment No.1

469 Statutes, is amended to read:

470 377.242 Permits for drilling or exploring and extracting
471 through well holes or by other means.--The department is vested
472 with the power and authority:

473 (3) To issue permits to establish natural gas storage
474 facilities or construct wells for the injection and recovery of
475 any natural gas for temporary storage in natural gas storage
476 subsurface reservoirs.

477
478 Each permit shall contain an agreement by the permitholder that
479 the permitholder will not prevent inspection by division
480 personnel at any time. The provisions of this section
481 prohibiting permits for drilling or exploring for oil in coastal
482 waters do not apply to any leases entered into before June 7,
483 1991.

484 Section 14. Section 377.2431, Florida Statutes, is
485 created to read:

486 377.2431 Conditions for granting permits for natural gas
487 storage facilities.--

488 (1) A natural gas storage facility permit must be issued
489 for the life of the facility, subject to recertification every 5
490 years.

491 (2) Before issuing or reissuing a permit, the division
492 shall require satisfactory evidence of the following:

493 (a) The applicant has implemented, or is in the process of
494 implementing, programs for the control and mitigation of
495 pollution related to oil, petroleum products or their
496 byproducts, and other pollutants.

Amendment No.1

497 (b) The applicant or operator has acquired a lawful right
498 to drill, explore, or develop a natural gas storage reservoir
499 from owners of a majority of the storage rights, or the
500 applicant or operator has obtained a certificate of public
501 convenience and necessity for the natural gas storage reservoir
502 from the Federal Energy Regulatory Commission pursuant to the
503 Natural Gas Act, 15 U.S.C. ss. 717 et seq.

504 (c) The applicant has used all reasonable means to
505 identify known wells that have been drilled into or through the
506 natural gas storage reservoir to determine the status of the
507 wells and whether inactive or abandoned wells have been properly
508 plugged. For any well that has not been properly plugged,
509 before conducting injection operations and after issuance of the
510 permit, the applicant must plug or recondition the well to
511 ensure the integrity of the storage reservoir.

512 (d) The applicant has tested the quality of water produced
513 by all water supply wells within the lateral boundary of the
514 natural gas storage facility and complied with all requirements
515 under s. 377.2432. The applicant shall provide to the
516 department and the owner of the water supply well a written copy
517 of the water quality data collected under this paragraph.

518 (3) All inspections and other reports required under this
519 section must be submitted to the department in the manner
520 prescribed by rule.

521 (4) A natural gas storage facility operator shall request
522 approval of a maximum storage pressure for a natural gas storage
523 reservoir in accordance with the following:

Amendment No.1

524 (a) The maximum shut-in bottom hole pressure may not
525 exceed the highest shut-in bottom hole pressure found to exist
526 during the production history of the reservoir, unless a higher
527 pressure is established by the department based on testing of
528 caprock and pool containment. The methods used for determining
529 the higher pressure must be approved by the department.

530 (b) If the shut-in bottom hole pressure of the original
531 discovery or of the highest production is not known, or a higher
532 pressure has not been established through a method approved by
533 the department pursuant to paragraph (a), the maximum storage
534 reservoir pressure must be limited to a freshwater hydrostatic
535 gradient.

536 (5) The department may issue a permit to an applicant
537 regardless of whether the department has adopted rules for the
538 activities or operations authorized under this section, or rules
539 prescribing the forms of the application for a permit.

540 (6) A county or municipality may not adopt an ordinance,
541 resolution, comprehensive plan, or land development regulation,
542 or otherwise attempt to regulate or enforce any matter
543 concerning natural gas storage facilities governed under this
544 part.

545 Section 15. Section 377.2432, Florida Statutes, is
546 created to read:

547 377.2432 Natural gas storage facilities; protection of
548 water supplies.--

549 (1) An operator of a natural gas storage facility who
550 affects a public or private underground water supply by
551 pollution or diminution shall restore or replace the affected

Amendment No.1

552 supply with an alternate source of water adequate in quantity
553 and quality for the purposes served by the supply. The
554 department shall ensure that the quality of restored or replaced
555 water is comparable to the quality of the water before it was
556 affected by the operator.

557 (2) Unless rebutted by a defense established in subsection
558 (4), an operator is presumed responsible for pollution of an
559 underground water supply if:

560 (a) The water supply is within the horizontal boundary of
561 the natural gas storage facility; and

562 (b) The pollution occurred within 6 months after
563 completion of drilling or alteration of any well under or
564 associated with the natural gas storage facility permit, or the
565 initial injection of gas into the natural gas storage reservoir,
566 whichever is later.

567 (3) If the affected underground water supply is within the
568 rebuttable presumption area as provided in subsection (2) and
569 the rebuttable presumption applies, the operator shall provide a
570 temporary water supply if the water user is without a readily
571 available alternative source of water. The temporary water
572 supply provided under this subsection must be adequate in
573 quantity and quality for the purposes served by the affected
574 supply.

575 (4) A natural gas storage facility operator rebuts the
576 presumption in subsection (2) by affirmatively proving any of
577 the following:

Amendment No.1

578 (a) The pollution existed before the drilling or
579 alteration activity as determined by a predrilling or
580 prealteration survey.

581 (b) The landowner or water purveyor refused to allow the
582 operator access to conduct a predrilling or prealteration
583 survey.

584 (c) The water supply well is not within the lateral
585 boundary of the natural gas storage facility.

586 (d) The pollution occurred more than 6 months after
587 completion of drilling or alteration of any well under or
588 associated with the natural gas storage facility permit.

589 (e) The pollution occurred as the result of a cause other
590 than activities authorized under the natural gas storage
591 facility permit.

592 (5) An operator electing to preserve a defense under
593 subsection (4) must retain an independent certified laboratory
594 to conduct a predrilling or prealteration survey of the water
595 supply. A copy of survey results must be submitted to the
596 department and the landowner or water purveyor in the manner
597 prescribed by the department.

598 (6) An operator must provide written notice to the
599 landowner or water purveyor indicating that the presumption
600 established under subsection (2) may be void if the landowner or
601 water purveyor refused to allow the operator access to conduct a
602 predrilling or prealteration survey. Proof of written notice to
603 the landowner or water purveyor must be provided to the
604 department in order for the operator to retain the protections
605 under subsection (4).

Amendment No.1

606 (7) This section does not prevent a landowner or water
607 purveyor who claims pollution or diminution of a water supply
608 from seeking any other remedy at law or in equity.

609 Section 16. Section 377.2433, Florida Statutes, is
610 created to read:

611 377.2433 Protection of natural gas storage facilities;
612 remedies.--

613 (1) The department may not authorize the drilling of any
614 well into or through a permitted natural gas storage reservoir
615 or reservoir protective area, except upon conditions deemed by
616 the department to be sufficient to prevent the loss, migration,
617 or escape of gas from the natural gas storage reservoir. The
618 department shall provide written notice to the natural gas
619 storage facility operator of any application filed with the
620 department and any agency action taken related to drilling a
621 well into or through a permitted natural gas storage facility
622 boundary or reservoir protective area.

623 (2) As a condition for the issuance of a permit by the
624 department, an applicant seeking to drill a well into or through
625 a permitted natural gas storage facility boundary or reservoir
626 protective area must provide the affected natural gas storage
627 facility operator a reasonable right of entry to observe and
628 monitor all drilling activities.

629 (3) The department shall ensure that any well drilled into
630 or through a permitted natural gas storage reservoir or
631 reservoir protective area is cased and cemented in a manner
632 sufficient to protect the integrity of the natural gas storage
633 reservoir.

Amendment No.1

634 (4) A natural gas storage facility operator may petition
635 the department for a determination that any other activity is
636 causing gas migration, escape, or loss, or in any other respect
637 adversely affecting the integrity and use of the natural gas
638 storage reservoir. Upon the filing of such petition, the
639 department shall conduct a preliminary investigation and make a
640 preliminary determination of whether probable cause exists to
641 believe that the allegations of the petition may be true and
642 correct. If the department determines that probable cause
643 exists, the department shall:

644 (a) Require the activity allegedly causing the adverse
645 effect to immediately cease operations or take other steps
646 necessary to prevent harm pending a final determination.

647 (b) Refer the petition to the Division of Administrative
648 Hearings to conduct formal administrative proceedings pursuant
649 to ss. 120.57 and 120.569 to make findings of fact regarding the
650 allegations of the petition. Based upon such findings of fact,
651 the department shall enter a final order granting or denying the
652 petition. Any final order granting such petition must include
653 remedial measures to be undertaken by the activity alleged to be
654 causing gas migration up to and including complete cessation of
655 such activity. Final orders issued pursuant to this paragraph
656 are appealable pursuant to s. 120.68.

657 (5) This section does not prohibit a natural gas storage
658 facility operator from seeking any other remedy at law or in
659 equity.

660 Section 17. Section 377.2434, Florida Statutes, is
661 created to read:

Amendment No.1

662 377.2434 Property rights to injected natural gas.--

663 (1) All natural gas that has previously been reduced to
664 possession and that is subsequently injected into a natural gas
665 storage facility is at all times the property of the injector or
666 the injector s heirs, successors, or assigns, whether owned by
667 the injector or stored under contract.

668 (2) Such gas may not be subject to the right of the owner
669 of the surface of the lands or of any mineral interest therein,
670 under which the natural gas storage facilities lie, or to the
671 right of any person, other than the injector or the injector s
672 heirs, successors, or assigns, to waste or otherwise interfere
673 with or exercise control over such gas, to produce, to take, or
674 to reduce to possession, by means of the law of capture or
675 otherwise. This subsection does not affect the ownership of
676 hydrocarbons occurring naturally within this state or the right
677 of the owner of the surface of the lands or of any mineral
678 interest therein to drill or bore through the natural gas
679 storage facilities in a manner that will protect the facilities
680 against pollution or the escape of stored natural gas.

681 (3) With regard to natural gas that has migrated to
682 adjoining property or to a stratum, or portion thereof, which
683 has not been condemned or otherwise purchased:

684 (a) The injector or the injector s heirs, successors, or
685 assigns:

686 1. May not lose title to or possession of the gas if the
687 injector or the injector s heirs, successors, or assigns can
688 prove by a preponderance of the evidence that the gas was
689 originally injected into the underground storage; and

Amendment No.1

690 2. Have the right to conduct tests on any existing wells
691 on adjoining property as may be reasonable to determine
692 ownership of the gas, but the tests are solely at the injector s
693 risk and expense.

694 (b) The owner of the stratum and the owner of the surface
695 are entitled to compensation, including compensation for use of
696 or damage to the surface or substratum, as provided by law.

697 Section 18. Subsection (3) of section 377.25, Florida
698 Statutes, is amended to read:

699 377.25 Production pools; drilling units.--

700 (3) Each well permitted to be drilled upon any drilling
701 unit shall be drilled approximately in the center thereof, with
702 such exception as may be reasonably necessary where the division
703 finds that the unit is partly outside the pool or, for some
704 other reason, a well approximately in the center of the unit
705 would be nonproductive or where topographical conditions are
706 such as to make the drilling approximately in the center of the
707 unit unduly burdensome or where the operator proposes to
708 complete the well with a horizontal or nearly horizontal well in
709 the producing zone. Whenever an exception is granted, the
710 division shall take such action as will offset any advantage
711 which the person securing the exception may have over other
712 producers by reason of the drilling of the well as an exception,
713 and so that drainage from developed units to the tract, with
714 respect to which the exception is granted, will be prevented or
715 minimized, and the producer of the well drilled, as an
716 exception, will be allowed to produce no more than his or her
717 just and equitable share of the oil and gas in the pool, as such

Amendment No.1

718 share is set forth in this section. This subsection does not
719 apply to injection wells associated with a natural gas storage
720 facility.

721 Section 19. Subsections (1), (2), and (4) of section
722 377.28, Florida Statutes, are amended to read:

723 377.28 Cycling, pooling, and unitization of oil and gas.--

724 (2) The department shall issue an order requiring unit
725 operation if it finds that:

726 (a) Unit operation of the field, or of any pool or pools,
727 portion or portions, or combinations thereof within the field,
728 is reasonably necessary to prevent waste, to avoid the drilling
729 of unnecessary wells, or to increase the ultimate
730 recovery of oil or gas by additional recovery methods; ~~and~~

731 (b) The estimated additional cost incident to the conduct
732 of such operation will not exceed the value of the estimated
733 additional recovery of oil or gas; and

734 (c) The additional recovery of oil or gas does not
735 adversely interfere with the storage or recovery of natural gas
736 within a permitted natural gas storage reservoir.

737 Section 20. Subsection (4) is added to section 377.30,
738 Florida Statutes, to read:

739 377.30 Limitation on amount of oil or gas taken.--

740 (4) This section does not apply to nonnative gas recovered
741 from a permitted natural gas storage facility.

742 Section 21. Subsection (1) of section 377.34, Florida
743 Statutes, is amended to read:

744 377.34 Actions and injunctions by division.--

745 (1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is

Amendment No.1

746 violating, or threatening to violate, any statute of this state
747 with respect to the conservation of oil or gas, or both, or any
748 provision of this law, or any rule, regulation or order made
749 ~~thereunder~~ by any act done in the operation of a any well
750 producing oil or gas, or storing or recovering natural gas, or
751 by omitting an any act required to be done ~~thereunder~~, the
752 division, through its counsel, or the Department of Legal
753 Affairs on its own initiative, may bring suit against such
754 person in the Circuit Court in the County of Leon, state, or in
755 the circuit court in the county in which the well in question is
756 located, at the option of the division, or the Department of
757 Legal Affairs, to restrain such person or persons from
758 continuing such violation or from carrying out the threat of
759 violation. In such suit, the division, or the Department of
760 Legal Affairs, may obtain injunctions, prohibitory and
761 mandatory, including temporary restraining orders and temporary
762 injunctions, as the facts may warrant, including, when
763 appropriate, an injunction restraining any person from moving or
764 disposing of illegal oil, illegal gas or illegal product, and
765 any or all such commodities may be ordered to be impounded or
766 placed under the control of a receiver appointed by the court
767 if, in the judgment of the court, such action is advisable.

768 Section 22. Paragraph (a) of subsection (1) of section
769 377.37, Florida Statutes, is amended to read:

770 377.37 Penalties.--

771 (1) (a) Any person who violates any provision of this law
772 or any rule, regulation, or order of the division made under
773 this chapter or who violates the terms of any permit to drill

Amendment No.1

774 for or produce oil, gas, or other petroleum products referred to
775 in s. 377.242(1), ~~or~~ to store gas in a natural gas storage
776 facility, or any lessee, permitholder, or operator of equipment
777 or facilities used in the exploration for, drilling for, or
778 production of oil, gas, or other petroleum products, or storage
779 of gas in a natural gas storage facility, who refuses inspection
780 by the division as provided in this chapter, is liable to the
781 state for any damage caused to the air, waters, or property,
782 including animal, plant, or aquatic life, of the state and for
783 reasonable costs and expenses of the state in tracing the source
784 of the discharge, in controlling and abating the source and the
785 pollutants, and in restoring the air, waters, and property,
786 including animal, plant, and aquatic life, of the state.
787 Furthermore, such person, lessee, permitholder, or operator is
788 subject to the judicial imposition of a civil penalty in an
789 amount of not more than \$10,000 for each offense. However, the
790 court may receive evidence in mitigation. Each day during any
791 portion of which such violation occurs constitutes a separate
792 offense. Nothing herein shall give the department the right to
793 bring an action on behalf of any private person.

794 Section 23. Subsections (1) and (3) of section 377.371,
795 Florida Statutes, are amended to read:

796 377.371 Pollution prohibited; reporting, liability.--

797 (1) A ~~No~~ person drilling for or producing oil, gas, or
798 other petroleum products, or storing gas in a natural gas
799 storage facility, may not ~~shall~~ pollute land or water; damage
800 aquatic or marine life, wildlife, birds, or public or private
801 property; or allow any extraneous matter to enter or damage any

Amendment No.1

802 mineral or freshwater-bearing formation.

803 (3) Because it is the intent of this chapter to provide
804 the means for rapid and effective cleanup and to minimize
805 damages resulting from pollution in violation of this chapter,
806 if the waters of the state are polluted by the drilling, storage
807 of natural gas, or production operations of any person or
808 persons and such pollution damages or threatens to damage human,
809 animal, or plant life, public or private property, or any
810 mineral or water-bearing formation, said person shall be liable
811 to the state for all costs of cleanup or other damage incurred
812 by the state. In any suit to enforce claims of the state under
813 this chapter, it is ~~shall~~ not be necessary for the state to
814 plead or prove negligence in any form or manner on the part of
815 the person or persons conducting the drilling or production
816 operations; the state need only plead and prove the fact of the
817 prohibited discharge or other polluting condition and that it
818 occurred at the facilities of the person or persons conducting
819 the drilling or production operation. A ~~No~~ person or persons
820 conducting the drilling, storage, or production operation may
821 not ~~shall~~ be held liable if said person or persons prove that
822 the prohibited discharge or other polluting condition was the
823 result of any of the following:

824 (a) An act of war.

825 (b) An act of government, either state, federal, or
826 municipal.

827 (c) An act of God, which means an unforeseeable act
828 exclusively occasioned by the violence of nature without the
829 interference of any human agency.

Amendment No.1

830 (d) An act or omission of a third party without regard to
831 whether any such act or omission was or was not negligent.

832 Section 24. Paragraph (g) is added to subsection (3) of
833 section 403.973, Florida Statutes, and paragraph (b) of
834 subsection (14) of that section is amended, to read:

835 403.973 Expedited permitting; amendments to comprehensive
836 plans.--

837 (3)

838 (g) Projects for natural gas storage facilities that are
839 permitted under chapter 377 are eligible for the expedited
840 permitting process.

841 (h) Projects to construct interstate natural gas pipelines
842 subject to certification by the Federal Energy Regulatory
843 Commission.

844 (14)

845 (b) Projects identified in paragraphs (3) (f), (g), or (h)
846 or challenges to state agency action in the expedited
847 permitting process for establishment of a state-of-the-art
848 biomedical research institution and campus in this state by the
849 grantee under s. 288.955 are subject to the same requirements as
850 challenges brought under paragraph (a), except that,
851 notwithstanding s. 120.574, summary proceedings must be
852 conducted within 30 days after a party files the motion for
853 summary hearing, regardless of whether the parties agree to the
854 summary proceeding.

855 (19) The following projects are ineligible for review under
856 this part:

857 (b) A project, the primary purpose of which is to:

Amendment No.1

858 1. Effect the final disposal of solid waste, biomedical
859 waste, or hazardous waste in this state.

860 2. Produce electrical power, unless the production of
861 electricity is incidental and not the primary function of the
862 project or the electrical power is derived from a fuel source
863 for renewable energy as defined in s. 366.91(2) (d).

864 3. Extract natural resources.

865 4. Produce oil.

866 5. Construct, maintain, or operate an oil, petroleum,
867 ~~natural gas,~~ or sewage pipeline.

868 Section 25. The department is not required to adopt rules
869 relating to natural gas storage within two years of the
870 effective date of this act. Subject to satisfying all conditions
871 or requirements under this act, the department, however, may
872 issue a permit to an applicant for a natural gas storage
873 facility regardless of whether the department has adopted rules
874 for the activities or operations authorized under this act.

875 Section 26. This act shall take effect July 1, 2013.

876

877 -----

878 **T I T L E A M E N D M E N T**

879 Remove everything before the enacting clause and insert:
880 An act relating to underground natural gas storage; providing a
881 short title; amending s. 211.02, F.S.; narrowing the use of the
882 term "oil"; amending s. 211.025, F.S.; narrowing the scope of
883 the gas production tax to apply only to native gas; amending s.
884 376.301, F.S.; conforming a cross-reference; amending s. 377.06,
885 F.S.; making grammatical changes; declaring underground natural

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1083 (2013)

Amendment No.1

886 gas storage to be in the public interest; amending s. 377.18,
887 F.S.; clarifying common sources of oil and gas; amending s.
888 377.19, F.S.; modifying and providing definitions; amending s.
889 377.21, F.S.; extending the jurisdiction of the Division of
890 Resource Management of the Department of Environmental
891 Protection; amending s. 377.22, F.S.; expanding the scope of the
892 department's rules and orders; providing that the department's
893 authority must be self-executing and that a regulatory action
894 may not be deemed invalid solely because the department has not
895 yet adopted a certain rule; amending s. 377.24, F.S.; providing
896 for the notice and permitting of storage in and recovery from
897 natural gas storage reservoirs; creating s. 377.2407, F.S.;
898 establishing a natural gas storage facility permit application
899 process; specifying requirements for an application, including
900 fees; amending s. 377.241, F.S.; providing criteria that the
901 division must consider in issuing permits; amending s. 377.242,
902 F.S.; granting authority to the department to issue permits to
903 establish natural gas storage facilities; creating s. 377.2431,
904 F.S.; establishing conditions and procedures for granting
905 natural gas storage facility permits; limiting the right of a
906 county or municipality to regulate natural gas storage
907 facilities; creating s. 377.2432, F.S.; providing for the
908 protection of water supplies at natural gas storage facilities;
909 providing that an operator is presumed responsible for pollution
910 of an underground water supply under certain circumstances;
911 creating s. 377.2433, F.S.; providing for the protection of
912 natural gas storage facilities through an administrative
913 hearing; creating s.377.2434, F.S.; providing that property

Amendment No.1

914 rights to injected natural gas are with the injector or the
915 injector s heirs, successors, or assigns; providing for
916 compensation to the owner of the stratum and the owner of the
917 surface for use of or damage to the surface or substratum;
918 amending s. 377.25, F.S.; limiting the scope of certain drilling
919 unit requirements; amending s. 377.28, F.S.; providing that the
920 department may consider the need for the operation as a unit for
921 the storage of natural gas; modifying situations in which the
922 department is required to issue an order requiring unit
923 operation; amending s. 377.29, F.S.; authorizing certain
924 agreements between owners and operators of a natural gas storage
925 facility; amending s. 377.30, F.S.; providing that limitations
926 on the amount of oil or gas taken do not apply to nonnative gas
927 recovered from a permitted natural gas storage facility;
928 amending s. 377.34, F.S.; providing for legal action against a
929 person who appears to be violating a rule that relates to the
930 storage or recovery of natural gas; amending s. 377.37, F.S.;
931 expanding penalties to reach persons who violate the terms of a
932 permit relating to storage of gas in a natural gas storage
933 facility; amending s. 377.371, F.S.; providing that a person
934 storing gas in a natural gas storage facility may not pollute or
935 otherwise damage certain areas and that a person who pollutes
936 water by storing natural gas is liable for cleanup or other
937 costs incurred by the state; amending s. 403.973, F.S.; allowing
938 expedited permitting for natural gas storage facilities
939 permitted under ch. 377, F.S.; allowing expedited permitting for
940 certain natural gas pipeline projects; providing that natural

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1083 (2013)

Amendment No.1

941 gas storage facilities and natural gas pipeline projects are
942 subject to certain requirements; providing an effective date.

943