

1 A bill to be entitled
2 An act relating to underground natural gas storage;
3 providing a short title; amending s. 211.02, F.S.;
4 narrowing the use of the term "oil"; amending s.
5 211.025, F.S.; narrowing the scope of the gas
6 production tax to apply only to native gas; amending
7 s. 376.301, F.S.; conforming a cross-reference;
8 amending s. 377.06, F.S.; declaring underground
9 natural gas storage to be in the public interest;
10 amending s. 377.18, F.S.; clarifying common sources of
11 oil and gas; amending s. 377.19, F.S.; modifying and
12 providing definitions; amending s. 377.21, F.S.;
13 extending the jurisdiction of the Division of Resource
14 Management of the Department of Environmental
15 Protection; amending s. 377.22, F.S.; expanding the
16 scope of the department's rules and orders; providing
17 that the department's authority must be self-executing
18 and that a regulatory action may not be deemed invalid
19 solely because the department has not yet adopted a
20 certain rule; amending s. 377.24, F.S.; providing for
21 the notice and permitting of storage in and recovery
22 from natural gas storage reservoirs; creating s.
23 377.2407, F.S.; establishing a natural gas storage
24 facility permit application process; specifying
25 requirements for an application, including fees;
26 amending s. 377.241, F.S.; providing criteria that the
27 division must consider in issuing permits; amending s.
28 377.242, F.S.; granting authority to the department to

29 | issue permits to establish natural gas storage
30 | facilities; creating s. 377.2431, F.S.; establishing
31 | conditions and procedures for granting natural gas
32 | storage facility permits; limiting the right of a
33 | county or municipality to regulate natural gas storage
34 | facilities; creating s. 377.2432, F.S.; providing for
35 | the protection of water supplies at natural gas
36 | storage facilities; providing that an operator is
37 | presumed responsible for pollution of an underground
38 | water supply under certain circumstances; creating s.
39 | 377.2433, F.S.; providing for the protection of
40 | natural gas storage facilities through an
41 | administrative hearing; creating s. 377.2434, F.S.;
42 | providing that property rights to injected natural gas
43 | are with the injector or the injector's heirs,
44 | successors, or assigns; providing for compensation to
45 | the owner of the stratum and the owner of the surface
46 | for use of or damage to the surface or substratum;
47 | amending s. 377.25, F.S.; limiting the scope of
48 | certain drilling unit requirements; amending s.
49 | 377.28, F.S.; modifying situations in which the
50 | department is required to issue an order requiring
51 | unit operation; amending s. 377.30, F.S.; providing
52 | that limitations on the amount of oil or gas taken do
53 | not apply to nonnative gas recovered from a permitted
54 | natural gas storage facility; amending s. 377.34,
55 | F.S.; providing for legal action against a person who
56 | appears to be violating a rule that relates to the

57 | storage or recovery of natural gas; amending s.
 58 | 377.37, F.S.; expanding penalties to reach persons who
 59 | violate the terms of a permit relating to storage of
 60 | gas in a natural gas storage facility; amending s.
 61 | 377.371, F.S.; providing that a person storing gas in
 62 | a natural gas storage facility may not pollute or
 63 | otherwise damage certain areas and that a person who
 64 | pollutes water by storing natural gas is liable for
 65 | cleanup or other costs incurred by the state; amending
 66 | s. 403.973, F.S.; allowing expedited permitting for
 67 | natural gas storage facilities permitted under ch.
 68 | 377, F.S.; providing that natural gas storage
 69 | facilities are subject to certain requirements;
 70 | authorizing the department to issue permits for
 71 | natural gas storage facilities before adopting rules
 72 | for such activities and operations; providing an
 73 | effective date.

74 |

75 | Be It Enacted by the Legislature of the State of Florida:

76 |

77 | Section 1. This act may be cited as the "Florida
 78 | Underground Natural Gas Storage Act."

79 | Section 2. Subsection (7) is added to section 211.02,
 80 | Florida Statutes, to read:

81 | 211.02 Oil production tax; basis and rate of tax; tertiary
 82 | oil and mature field recovery oil.—An excise tax is hereby
 83 | levied upon every person who severs oil in the state for sale,
 84 | transport, storage, profit, or commercial use. Except as

85 otherwise provided in this part, the tax is levied on the basis
 86 of the entire production of oil in this state, including any
 87 royalty interest. Such tax shall accrue at the time the oil is
 88 severed and shall be a lien on production regardless of the
 89 place of sale, to whom sold, or by whom used, and regardless of
 90 the fact that delivery of the oil may be made outside the state.

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

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

98 211.025 Gas production tax; basis and rate of tax.—An
 99 excise tax is hereby levied upon every person who severs gas in
 100 the state for sale, transport, profit, or commercial use. Except
 101 as otherwise provided in this part, the tax shall be levied on
 102 the basis of the entire production of gas in this state,
 103 including any royalty interest. Such tax shall accrue at the
 104 time the gas is severed and shall be a lien on production
 105 regardless of the place of sale, to whom sold, or by whom used
 106 and regardless of the fact that delivery of the gas may be made
 107 outside the state.

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

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

112 376.301 Definitions of terms used in ss. 376.30–376.317,

CS/HB 1083

2013

113 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
 114 376.75, unless the context clearly requires otherwise, the term:

115 (36) "Pollutants" includes any "product" as defined in s.
 116 377.19~~(11)~~, pesticides, ammonia, chlorine, and derivatives
 117 thereof, excluding liquefied petroleum gas.

118 Section 5. Section 377.06, Florida Statutes, is amended to
 119 read:

120 377.06 Public policy of state concerning natural resources
 121 of oil and gas.—It is hereby declared ~~to be~~ the public policy of
 122 this the state to conserve and control the natural resources of
 123 oil and gas in this said state, and the products made from oil
 124 and gas in this state ~~therefrom~~; to prevent waste of ~~said~~
 125 natural resources; to provide for the protection and adjustment
 126 of the correlative rights of the owners of the land in which the
 127 ~~wherein said~~ natural resources lie, of and the owners and
 128 producers of oil and gas resources and the products made from
 129 oil and gas ~~therefrom~~, and of others interested in these
 130 resources and products ~~therein~~; to safeguard the health,
 131 property, and public welfare of the residents ~~citizens~~ of this
 132 ~~said~~ state and other interested persons and for all purposes
 133 indicated by the provisions in this section ~~herein~~. Further, it
 134 is declared that underground storage of natural gas is in the
 135 public interest because underground storage promotes
 136 conservation of natural gas; makes gas more readily available to
 137 the domestic, commercial, and industrial consumers of this
 138 state; and allows the accumulation of large quantities of gas in
 139 reserve for orderly withdrawal during emergencies or periods of
 140 peak demand. It is not the intention of this section to limit,

141 ~~or~~ restrict, or modify in any way the provisions of this law.

142 Section 6. Section 377.18, Florida Statutes, is amended to
 143 read:

144 377.18 Common sources of oil and gas.—All common sources
 145 of supply of oil or native and gas ~~or either of them~~ shall have
 146 the production ~~therefrom~~ controlled or regulated in accordance
 147 with the provisions of this law.

148 Section 7. Section 377.19, Florida Statutes, is reordered
 149 and amended to read:

150 377.19 Definitions.—As used ~~Unless the context otherwise~~
 151 ~~requires, the words defined in this section shall have the~~
 152 ~~following meanings when found in ss. 377.06, 377.07, and 377.10-~~
 153 ~~377.40, the term:~~

154 (1) ~~(21)~~ "Completion date" means the day, month, and year
 155 that a new productive well, a previously shut-in well, or a
 156 temporarily abandoned well is completed, repaired, or
 157 recompleted and the operator begins producing oil or gas in
 158 commercial quantities.

159 (2) "Department" means the Department of Environmental
 160 Protection.

161 (3) ~~(4)~~ "Division" means the Division of Resource
 162 Management of the Department of Environmental Protection.

163 (4) ~~(7)~~ "Field" means the general area that ~~which~~ is
 164 underlaid, or appears to be underlaid, by at least one pool. The
 165 term; ~~and "field"~~ includes the underground reservoir, or
 166 reservoirs, containing oil or gas, or both. The terms ~~words~~
 167 "field" and "pool" mean the same thing if ~~when~~ only one
 168 underground reservoir is involved; however, the term "field,"

169 unlike the term "pool," may relate to two or more pools.

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

172 ~~(6)-(25)~~ "Horizontal well" means a well completed with the
173 wellbore in a horizontal or nearly horizontal orientation within
174 10 degrees of horizontal within the producing formation.

175 ~~(7)-(13)~~ "Illegal gas" means gas that ~~which~~ has been
176 produced within the state from any well or wells in excess of
177 the amount allowed by any rule, regulation, or order of the
178 division, as distinguished from gas produced within the State of
179 Florida from a well not producing in excess of the amount so
180 allowed, which is "legal gas."

181 ~~(8)-(12)~~ "Illegal oil" means oil that ~~which~~ has been
182 produced within the state from any well or wells in excess of
183 the amount allowed by rule, regulation, or order of the
184 division, as distinguished from oil produced within the state
185 from a well not producing in excess of the amount so allowed,
186 which is "legal oil."

187 ~~(9)-(14)~~ "Illegal product" means a ~~any~~ product of oil or
188 gas, any part of which was processed or derived, in whole or in
189 part, from illegal gas or illegal oil or from any product
190 thereof, as distinguished from "legal product," which is a
191 product processed or derived to no extent from illegal oil or
192 illegal gas.

193 ~~(10)~~ "Lateral storage reservoir boundary" means the
194 projection up to the land surface of the maximum horizontal
195 extent of the gas volume contained in a natural gas storage
196 reservoir.

197 (11) "Native gas" means gas that occurs naturally within
198 this state and does not include gas produced outside the state,
199 transported to this state, and injected into a permitted natural
200 gas storage facility.

201 (12) "Natural gas storage facility" means an underground
202 reservoir from which oil or gas has previously been produced and
203 which is used or to be used for the underground storage of
204 natural gas, and any surface or subsurface structure,
205 infrastructure, right, or appurtenance necessary or useful in
206 the operation of the facility for the underground storage of
207 natural gas, including any necessary or reasonable reservoir
208 protective area as designated for the purpose of ensuring the
209 safe operation of the storage of natural gas or protecting the
210 natural gas storage facility from pollution, invasion, escape,
211 or migration of gas, or any subsequent extension thereof. The
212 term does not mean a transmission, distribution, or gathering
213 pipeline or system that is not used primarily as integral piping
214 for a natural gas storage facility.

215 (13) "Natural gas storage reservoir" means a pool or field
216 from which gas or oil has previously been produced and which is
217 suitable for or capable of being made suitable for the
218 injection, storage, and recovery of gas.

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

222 (15)-(4) "Oil" means crude petroleum oil and other
223 hydrocarbons, regardless of gravity, which are produced at the
224 well in liquid form by ordinary production methods, and which

225 are not the result of condensation of gas after it leaves the
 226 reservoir.

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

229 (17)-(19) "Oil and gas administrator" means the State
 230 Geologist.

231 ~~(17) The use of the word "and" includes the word "or" and~~
 232 ~~the use of "or" includes "and," unless the context clearly~~
 233 ~~requires a different meaning, especially with respect to such~~
 234 ~~expressions as "oil and gas" or "oil or gas."~~

235 (18)-(20) "Operator" means the entity who:

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

237 (b) As part of a natural gas storage facility, injects, or
 238 is engaged in the work of preparing to inject, gas into a
 239 natural gas storage reservoir; or stores gas in, or removes gas
 240 from, a natural gas storage reservoir.

241 (19)-(8) "Owner" means the person who has the right to
 242 drill into and to produce from any pool and to appropriate the
 243 production ~~either~~ for the person or for the person and another,
 244 or others.

245 (20)-(3) "Person" means a ~~any~~ natural person, corporation,
 246 association, partnership, receiver, trustee, guardian, executor,
 247 administrator, fiduciary, or representative of any kind.

248 (21)-(6) "Pool" means an underground reservoir containing
 249 or appearing to contain a common accumulation of oil or gas or
 250 both. Each zone of a general structure which is completely
 251 separated from any other zone on the structure is considered a
 252 separate pool as used herein.

253 | ~~(22)-(9)~~ "Producer" means the owner or operator of a well
 254 | or wells capable of producing oil or gas, or both.

255 | ~~(23)-(11)~~ "Product" means a ~~any~~ commodity made from oil or
 256 | gas and includes refined crude oil, crude tops, topped crude,
 257 | processed crude petroleum, residue from crude petroleum,
 258 | cracking stock, uncracked fuel oil, fuel oil, treated crude oil,
 259 | residuum, gas oil, casinghead gasoline, natural gas gasoline,
 260 | naphtha, distillate, condensate, gasoline, waste oil, kerosene,
 261 | benzine, wash oil, blended gasoline, lubricating oil, blends or
 262 | mixtures of oil with one or more liquid products or byproducts
 263 | derived from oil or gas, and blends or mixtures of two or more
 264 | liquid products or byproducts derived from oil or gas, whether
 265 | hereinabove enumerated or not.

266 | ~~(24)-(15)~~ "Reasonable market demand" means the amount of
 267 | oil reasonably needed for current consumption, together with a
 268 | reasonable amount of oil for storage and working stocks.

269 | (25) "Reservoir protective area" means the area extending
 270 | up to and including 2,000 feet surrounding a natural gas lateral
 271 | storage reservoir boundary.

272 | (26) "Shut-in bottom hole pressure" means the pressure at
 273 | the bottom of a well when all valves are closed and no oil or
 274 | gas has been allowed to escape for at least 24 hours.

275 | ~~(27)-(22)~~ "Shut-in well" means an oil or gas well that has
 276 | been taken out of service for economic reasons or mechanical
 277 | repairs.

278 | ~~(28)-(2)~~ "State" means the State of Florida.

279 | ~~(29)-(23)~~ "Temporarily abandoned well" means a permitted
 280 | well or wellbore that has been abandoned by plugging in a manner

281 that allows reentry and redevelopment in accordance with oil or
 282 gas rules of the Department of Environmental Protection.

283 (30)~~(16)~~ "Tender" means a permit or certificate of
 284 clearance for the transportation or the delivery of oil, gas, or
 285 products, approved and issued or registered under the authority
 286 of the division.

287 (31)~~(10)~~ "Waste," in addition to its ordinary meaning,
 288 means "physical waste" as that term is generally understood in
 289 the oil and gas industry. The term "waste" includes:

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

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

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

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

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

307 (f) The underground waste, however caused and whether or
 308 not defined, which does not include seepage or migration of

309 injected nonnative gas from a natural gas storage reservoir.

310 (g) The creation of unnecessary fire hazards.

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

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

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

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

321 ~~(32)-(18)~~ "Well site" means the general area around a well,
 322 which area has been disturbed from its natural or existing
 323 condition, as well as the drilling or production pad, mud and
 324 water circulation pits, and other operation areas necessary to
 325 drill for or produce oil or gas, or to inject gas into and
 326 recover gas from a natural gas storage facility.

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

329 377.21 Jurisdiction of division.—

330 (1) The division shall have jurisdiction and authority
 331 over all persons and property necessary to administer and
 332 enforce effectively the provisions of this law and all other
 333 laws relating to the conservation of oil and gas or to the
 334 storage of gas in and recovery of gas from natural gas storage
 335 reservoirs.

336 Section 9. Subsection (2) of section 377.22, Florida

337 Statutes, is amended, and subsection (3) is added to that
338 section, to read:

339 377.22 Rules and orders.—

340 (2) The department shall issue orders and adopt rules
341 pursuant to ss. 120.536~~(1)~~ and 120.54 to implement and enforce
342 the provisions of this chapter. Such rules and orders shall
343 ensure that all precautions are taken to prevent the spillage of
344 oil or any other pollutant in all phases of the drilling for,
345 and extracting of, oil, gas, or other petroleum products, or
346 during the injection of gas into and recovery of gas from a
347 natural gas storage reservoir. The department shall revise such
348 rules from time to time as necessary for the proper
349 administration and enforcement of this chapter. Rules adopted
350 and orders issued in accordance with this section are ~~shall be~~
351 for, but ~~shall not be~~ limited to, the following purposes:

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

356 (b) To prevent the alteration of the sheet flow of water
357 in any area.

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

363 (d) To require the drilling, casing, and plugging of wells
364 to be done in such a manner as to prevent the escape of oil or

365 other petroleum products from one stratum to another.

366 (e) To prevent the intrusion of water into an oil or gas
 367 stratum from a separate stratum, except as provided by rules of
 368 the division relating to the injection of water for proper
 369 reservoir conservation and brine disposal.

370 (f) To require a reasonable bond, or other form of
 371 security acceptable to the department, conditioned upon the
 372 performance of the duty to plug properly each dry and abandoned
 373 well and the full and complete restoration by the applicant of
 374 the area over which geophysical exploration, drilling, or
 375 production is conducted to the similar contour and general
 376 condition in existence prior to such operation.

377 (g) To require and carry out a reasonable program of
 378 producing or injecting wells, or monitoring or inspection of all
 379 drilling operations ~~or producing wells~~, including regular
 380 inspections by division personnel.

381 (h) To require the making of reports showing the location
 382 of all oil and gas wells; the making and filing of logs; the
 383 taking and filing of directional surveys; the filing of
 384 electrical, sonic, radioactive, and mechanical logs of oil and
 385 gas wells; if taken, the saving of cutting and cores, the cuts
 386 of which shall be given to the Bureau of Geology; and the making
 387 of reports with respect to drilling and production records.
 388 However, such information, or any part thereof, at the request
 389 of the operator, shall be exempt from the provisions of s.
 390 119.07(1) and held confidential by the division for a period of
 391 1 year after the completion of a well.

392 (i) To prevent wells from being drilled, operated, or

393 | produced in such a manner as to cause injury to neighboring
 394 | leases, ~~or~~ property, or natural gas storage reservoirs.

395 | (j) To prevent the drowning by water of any stratum, or
 396 | part thereof, capable of producing oil or gas in paying
 397 | quantities and to prevent the premature and irregular
 398 | encroachment of water which reduces, or tends to reduce, the
 399 | total ultimate recovery of oil or gas from any pool.

400 | (k) To require the operation of wells with efficient gas-
 401 | oil ratio, and to fix such ratios.

402 | (l) To prevent "blowouts," "caving," and "seepage," in the
 403 | sense that conditions indicated by such terms are generally
 404 | understood in the oil and gas business.

405 | (m) To prevent fires.

406 | (n) To identify the ownership of all oil or gas wells,
 407 | producing leases, refineries, tanks, plants, structures, and
 408 | storage and transportation equipment and facilities.

409 | (o) To regulate the "shooting," perforating and chemical
 410 | treatment of wells.

411 | (p) To regulate secondary recovery methods, including the
 412 | introduction of gas, air, water, or other substance into
 413 | producing formations.

414 | (q) To regulate gas cycling operations.

415 | (r) To regulate the storage and recovery of gas injected
 416 | into natural gas storage facilities.

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

420 | (t)~~(s)~~ To require, either generally or in or from

421 particular areas, certificates of clearance or tenders in
 422 connection with the transportation or delivery of oil or gas, or
 423 any product.

424 (u)~~(t)~~ To regulate the spacing of wells and to establish
 425 drilling units.

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

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

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

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

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

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

446 377.24 Notice of intention to drill well; permits;
 447 abandoned wells and dry holes.—

448 (1) Before drilling a ~~any~~ well in search of oil or gas, or

449 before storing gas in or recovering gas from a natural gas
450 storage reservoir shall be drilled, the person who desires
451 ~~desiring~~ to drill, store, or recover oil or gas the same shall
452 notify the division upon such form as it may prescribe and shall
453 pay a reasonable fee set by rule of the department not to exceed
454 the actual cost of processing and inspecting for each well or
455 reservoir. The drilling of any well and the storing and
456 recovering of gas are ~~is hereby~~ prohibited until such notice is
457 given, the ~~and such~~ fee is ~~has been~~ paid, and the permit is
458 granted.

459 (2) An ~~Each~~ application for the drilling of a well in
460 search of oil or gas, or for the storing of gas in and
461 recovering of gas from a natural gas storage reservoir, in this
462 state must ~~shall~~ include the address of the residence of the
463 applicant, or applicants ~~each applicant,~~ which must ~~address~~
464 ~~shall~~ be the address of each person involved in accordance with
465 the records of the Division of Resource Management until such
466 address is changed on the records of the division after written
467 request.

468 Section 11. Section 377.2407, Florida Statutes, is created
469 to read:

470 377.2407 Natural gas storage facility permit application
471 to inject gas into and recover gas from a natural gas storage
472 reservoir.-

473 (1) Before drilling a well to inject gas into and recover
474 gas from a natural gas storage reservoir, the person who desires
475 to conduct such operation shall apply to the department in the
476 manner described in this section or using such form as the

477 department may prescribe and shall pay a reasonable fee for
478 processing to obtain a natural gas storage facility permit.

479 (2) Each application must contain:

480 (a) A detailed, three-dimensional description of the
481 natural gas storage reservoir, including geologic-based
482 descriptions of the reservoir boundaries, and the horizontal and
483 vertical dimensions.

484 (b) A geographic description of the lateral reservoir
485 boundary.

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

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

490 (e) Information demonstrating that the proposed natural
491 gas storage reservoir is suitable for the storage and recovery
492 of gas.

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

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

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

499 (i) A well inspection plan that requires, at a minimum,
500 the inspection of all wells that are part of the natural gas
501 storage facility and plugged wells within the natural gas
502 storage facility boundary.

503 (j) A casing inspection plan.

504 (k) A spill prevention and response plan.

505 (l) A well spacing plan.

506 (m) An operating plan for the natural gas storage
507 reservoir, which must include gas capacities, anticipated
508 operating conditions, and maximum storage pressure.

509 (n) A gas migration response plan.

510 (3) Each application may require additional information
511 that is deemed necessary to permit the development of wells;
512 drilling of wells; and operation of exploratory investigation,
513 injection of gas into and recovery of gas from reservoirs,
514 withdrawal of water through withdrawal-only wells, and
515 monitoring of wells. Each well may be authorized under the
516 natural gas storage facility permit subject to each well
517 individually satisfying applicable well construction and
518 operation criteria under this part.

519 Section 12. Subsections (4) and (5) are added to section
520 377.241, Florida Statutes, to read:

521 377.241 Criteria for issuance of permits.—The division, in
522 the exercise of its authority to issue permits as hereinafter
523 provided, shall give consideration to and be guided by the
524 following criteria:

525 (4) For activities and operations concerning a natural gas
526 storage facility, the nature, structure, and proposed use of the
527 natural gas storage reservoir is suitable for the storage and
528 recovery of gas without adverse effect to public health or
529 safety or the environment.

530 (5) A permit may not be issued for a natural gas storage
531 facility that includes a natural gas storage reservoir that is
532 located in any aquifer containing water with a total dissolved

CS/HB 1083

2013

533 solids concentration of 10,000 mg/l or less, in any offshore
534 location in the Gulf of Mexico, the Straits of Florida, or the
535 Atlantic Ocean, or an offshore salt dome.

536 Section 13. Subsection (3) of section 377.242, Florida
537 Statutes, is amended to read:

538 377.242 Permits for drilling or exploring and extracting
539 through well holes or by other means.—The department is vested
540 with the power and authority:

541 (3) To issue permits to establish natural gas storage
542 facilities or construct wells for the injection and recovery of
543 any natural gas for ~~temporary~~ storage in natural gas storage
544 subsurface reservoirs.

545
546 Each permit shall contain an agreement by the permit holder that
547 the permit holder will not prevent inspection by division
548 personnel at any time. The provisions of this section
549 prohibiting permits for drilling or exploring for oil in coastal
550 waters do not apply to any leases entered into before June 7,
551 1991.

552 Section 14. Section 377.2431, Florida Statutes, is created
553 to read:

554 377.2431 Conditions for granting permits for natural gas
555 storage facilities.—

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

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

561 (a) The applicant has implemented, or is in the process of
562 implementing, programs for the control and mitigation of
563 pollution related to oil, petroleum products or their
564 byproducts, and other pollutants.

565 (b) The applicant or operator has acquired a lawful right
566 to drill, explore, or develop a natural gas storage reservoir
567 from owners of a majority of the storage rights, or the
568 applicant or operator has obtained a certificate of public
569 convenience and necessity for the natural gas storage reservoir
570 from the Federal Energy Regulatory Commission pursuant to the
571 Natural Gas Act, 15 U.S.C. ss. 717 et seq.

572 (c) The applicant has used all reasonable means to
573 identify known wells that have been drilled into or through the
574 natural gas storage reservoir to determine the status of the
575 wells and whether inactive or abandoned wells have been properly
576 plugged. For any well that has not been properly plugged, before
577 conducting injection operations and after issuance of the
578 permit, the applicant must plug or recondition the well to
579 ensure the integrity of the storage reservoir.

580 (d) The applicant has tested the quality of water produced
581 by all water supply wells within the lateral boundary of the
582 natural gas storage facility and complied with all requirements
583 under s. 377.2432. The applicant shall provide to the department
584 and the owner of the water supply well a written copy of the
585 water quality data collected under this paragraph.

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

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

592 (a) The maximum shut-in bottom hole pressure may not
593 exceed the highest shut-in bottom hole pressure found to exist
594 during the production history of the reservoir, unless a higher
595 pressure is established by the department based on testing of
596 caprock and pool containment. The methods used for determining
597 the higher pressure must be approved by the department.

598 (b) If the shut-in bottom hole pressure of the original
599 discovery or of the highest production is not known, or a higher
600 pressure has not been established through a method approved by
601 the department pursuant to paragraph (a), the maximum storage
602 reservoir pressure must be limited to a freshwater hydrostatic
603 gradient.

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

608 (6) A county or municipality may not adopt an ordinance,
609 resolution, comprehensive plan, or land development regulation,
610 or otherwise attempt to regulate or enforce any matter
611 concerning natural gas storage facilities governed under this
612 part.

613 Section 15. Section 377.2432, Florida Statutes, is created
614 to read:

615 377.2432 Natural gas storage facilities; protection of
616 water supplies.—

617 (1) An operator of a natural gas storage facility who
618 affects a public or private underground water supply by
619 pollution or diminution shall restore or replace the affected
620 supply with an alternate source of water adequate in quantity
621 and quality for the purposes served by the supply. The
622 department shall ensure that the quality of restored or replaced
623 water is comparable to the quality of the water before it was
624 affected by the operator.

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

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

630 (b) The pollution occurred within 6 months after
631 completion of drilling or alteration of any well under or
632 associated with the natural gas storage facility permit, or the
633 initial injection of gas into the natural gas storage reservoir,
634 whichever is later.

635 (3) If the affected underground water supply is within the
636 rebuttable presumption area as provided in subsection (2) and
637 the rebuttable presumption applies, the operator shall provide a
638 temporary water supply if the water user is without a readily
639 available alternative source of water. The temporary water
640 supply provided under this subsection must be adequate in
641 quantity and quality for the purposes served by the affected
642 supply.

643 (4) A natural gas storage facility operator rebuts the
644 presumption in subsection (2) by affirmatively proving any of

645 the following:

646 (a) The pollution existed before the drilling or
647 alteration activity as determined by a predrilling or
648 prealteration survey.

649 (b) The landowner or water purveyor refused to allow the
650 operator access to conduct a predrilling or prealteration
651 survey.

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

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

657 (e) The pollution occurred as the result of a cause other
658 than activities authorized under the natural gas storage
659 facility permit.

660 (5) An operator electing to preserve a defense under
661 subsection (4) must retain an independent certified laboratory
662 to conduct a predrilling or prealteration survey of the water
663 supply. A copy of survey results must be submitted to the
664 department and the landowner or water purveyor in the manner
665 prescribed by the department.

666 (6) An operator must provide written notice to the
667 landowner or water purveyor indicating that the presumption
668 established under subsection (2) may be void if the landowner or
669 water purveyor refused to allow the operator access to conduct a
670 predrilling or prealteration survey. Proof of written notice to
671 the landowner or water purveyor must be provided to the
672 department in order for the operator to retain the protections

673 | under subsection (4).

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

677 | Section 16. Section 377.2433, Florida Statutes, is created
678 | to read:

679 | 377.2433 Protection of natural gas storage facilities;
680 | remedies.—

681 | (1) The department may not authorize the drilling of any
682 | well into or through a permitted natural gas storage reservoir
683 | or reservoir protective area, except upon conditions deemed by
684 | the department to be sufficient to prevent the loss, migration,
685 | or escape of gas from the natural gas storage reservoir. The
686 | department shall provide written notice to the natural gas
687 | storage facility operator of any application filed with the
688 | department and any agency action taken related to drilling a
689 | well into or through a permitted natural gas storage facility
690 | boundary or reservoir protective area.

691 | (2) As a condition for the issuance of a permit by the
692 | department, an applicant seeking to drill a well into or through
693 | a permitted natural gas storage facility boundary or reservoir
694 | protective area must provide the affected natural gas storage
695 | facility operator a reasonable right of entry to observe and
696 | monitor all drilling activities.

697 | (3) The department shall ensure that any well drilled into
698 | or through a permitted natural gas storage reservoir or
699 | reservoir protective area is cased and cemented in a manner
700 | sufficient to protect the integrity of the natural gas storage

701 reservoir.

702 (4) A natural gas storage facility operator may petition
703 the department for a determination that any other activity is
704 causing gas migration, escape, or loss, or in any other respect
705 adversely affecting the integrity and use of the natural gas
706 storage reservoir. Upon the filing of such petition, the
707 department shall conduct a preliminary investigation and make a
708 preliminary determination of whether probable cause exists to
709 believe that the allegations of the petition may be true and
710 correct. If the department determines that probable cause
711 exists, the department shall:

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

715 (b) Refer the petition to the Division of Administrative
716 Hearings to conduct formal administrative proceedings pursuant
717 to ss. 120.57 and 120.569 to make findings of fact regarding the
718 allegations of the petition. Based upon such findings of fact,
719 the department shall enter a final order granting or denying the
720 petition. Any final order granting such petition must include
721 remedial measures to be undertaken by the activity alleged to be
722 causing gas migration up to and including complete cessation of
723 such activity. Final orders issued pursuant to this paragraph
724 are appealable pursuant to s. 120.68.

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

728 Section 17. Section 377.2434, Florida Statutes, is created

729 to read:

730 377.2434 Property rights to injected natural gas.—

731 (1) All natural gas that has previously been reduced to
732 possession and that is subsequently injected into a natural gas
733 storage facility is at all times the property of the injector or
734 the injector's heirs, successors, or assigns, whether owned by
735 the injector or stored under contract.

736 (2) Such gas may not be subject to the right of the owner
737 of the surface of the lands or of any mineral interest therein,
738 under which the natural gas storage facilities lie, or to the
739 right of any person, other than the injector or the injector's
740 heirs, successors, or assigns, to waste or otherwise interfere
741 with or exercise control over such gas, to produce, to take, or
742 to reduce to possession, by means of the law of capture or
743 otherwise. This subsection does not affect the ownership of
744 hydrocarbons occurring naturally within this state or the right
745 of the owner of the surface of the lands or of any mineral
746 interest therein to drill or bore through the natural gas
747 storage facilities in a manner that will protect the facilities
748 against pollution or the escape of stored natural gas.

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

752 (a) The injector or the injector's heirs, successors, or
753 assigns:

754 1. May not lose title to or possession of the gas if the
755 injector or the injector's heirs, successors, or assigns can
756 prove by a preponderance of the evidence that the gas was

CS/HB 1083

2013

757 originally injected into the underground storage; and
758 2. Have the right to conduct tests on any existing wells
759 on adjoining property as may be reasonable to determine
760 ownership of the gas, but the tests are solely at the injector's
761 risk and expense.

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

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

767 377.25 Production pools; drilling units.—

768 (3) Each well permitted to be drilled upon any drilling
769 unit shall be drilled approximately in the center thereof, with
770 such exception as may be reasonably necessary where the division
771 finds that the unit is partly outside the pool or, for some
772 other reason, a well approximately in the center of the unit
773 would be nonproductive or where topographical conditions are
774 such as to make the drilling approximately in the center of the
775 unit unduly burdensome or where the operator proposes to
776 complete the well with a horizontal or nearly horizontal well in
777 the producing zone. Whenever an exception is granted, the
778 division shall take such action as will offset any advantage
779 which the person securing the exception may have over other
780 producers by reason of the drilling of the well as an exception,
781 and so that drainage from developed units to the tract, with
782 respect to which the exception is granted, will be prevented or
783 minimized, and the producer of the well drilled, as an
784 exception, will be allowed to produce no more than his or her

785 just and equitable share of the oil and gas in the pool, as such
 786 share is set forth in this section. This subsection does not
 787 apply to injection wells associated with a natural gas storage
 788 facility.

789 Section 19. Subsection (2) of section 377.28, Florida
 790 Statutes, is amended to read:

791 377.28 Cycling, pooling, and unitization of oil and gas.-

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

794 (a) Unit operation of the field, or of any pool or pools,
 795 portion or portions, or combinations thereof within the field,
 796 is reasonably necessary to prevent waste, to avoid the drilling
 797 of unnecessary wells, or to increase the ultimate recovery of
 798 oil or gas by additional recovery methods; ~~and~~

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

802 (c) The additional recovery of oil or gas does not
 803 adversely interfere with the storage or recovery of natural gas
 804 within a natural gas storage reservoir.

805
 806 The phrase "additional recovery methods" as used herein
 807 includes, but is not limited to, the maintenance or partial
 808 maintenance of reservoir pressures; recycling; flooding a pool
 809 or pools, or parts thereof, with air, gas, water, liquid
 810 hydrocarbons, any other substance, or any combination thereof;
 811 or any other method of producing additional hydrocarbons
 812 approved by the department.

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

815 377.30 Limitation on amount of oil or gas taken.—

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

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

820 377.34 Actions and injunctions by division.—

821 (1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is
 822 violating, or threatening to violate, any statute of this state
 823 with respect to the conservation of oil or gas, or both, or any
 824 provision of this law, or any rule, regulation or order made
 825 ~~thereunder~~ by any act done in the operation of a ~~any~~ well
 826 producing oil or gas, or storing or recovering natural gas, or
 827 by omitting an ~~any~~ act required to be done ~~thereunder~~, the
 828 division, through its counsel, or the Department of Legal
 829 Affairs on its own initiative, may bring suit against such
 830 person in the Circuit Court in the County of Leon, state, or in
 831 the circuit court in the county in which the well in question is
 832 located, at the option of the division, or the Department of
 833 Legal Affairs, to restrain such person or persons from
 834 continuing such violation or from carrying out the threat of
 835 violation. In such suit, the division, or the Department of
 836 Legal Affairs, may obtain injunctions, prohibitory and
 837 mandatory, including temporary restraining orders and temporary
 838 injunctions, as the facts may warrant, including, when
 839 appropriate, an injunction restraining any person from moving or
 840 disposing of illegal oil, illegal gas or illegal product, and

841 any or all such commodities may be ordered to be impounded or
 842 placed under the control of a receiver appointed by the court
 843 if, in the judgment of the court, such action is advisable.

844 Section 22. Paragraph (a) of subsection (1) of section
 845 377.37, Florida Statutes, is amended to read:

846 377.37 Penalties.—

847 (1) (a) Any person who violates any provision of this law
 848 or any rule, regulation, or order of the division made under
 849 this chapter or who violates the terms of any permit to drill
 850 for or produce oil, gas, or other petroleum products referred to
 851 in s. 377.242(1)~~7~~ or to store gas in a natural gas storage
 852 facility, or any lessee, permitholder, or operator of equipment
 853 or facilities used in the exploration for, drilling for, or
 854 production of oil, gas, or other petroleum products, or storage
 855 of gas in a natural gas storage facility, who refuses inspection
 856 by the division as provided in this chapter, is liable to the
 857 state for any damage caused to the air, waters, or property,
 858 including animal, plant, or aquatic life, of the state and for
 859 reasonable costs and expenses of the state in tracing the source
 860 of the discharge, in controlling and abating the source and the
 861 pollutants, and in restoring the air, waters, and property,
 862 including animal, plant, and aquatic life, of the state.
 863 Furthermore, such person, lessee, permitholder, or operator is
 864 subject to the judicial imposition of a civil penalty in an
 865 amount of not more than \$10,000 for each offense. However, the
 866 court may receive evidence in mitigation. Each day during any
 867 portion of which such violation occurs constitutes a separate
 868 offense. Nothing herein shall give the department the right to

869 bring an action on behalf of any private person.

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

872 377.371 Pollution prohibited; reporting, liability.—

873 (1) A ~~No~~ person drilling for or producing oil, gas, or
874 other petroleum products, or storing gas in a natural gas
875 storage facility, may not ~~shall~~ pollute land or water; damage
876 aquatic or marine life, wildlife, birds, or public or private
877 property; or allow any extraneous matter to enter or damage any
878 mineral or freshwater-bearing formation.

879 (3) Because it is the intent of this chapter to provide
880 the means for rapid and effective cleanup and to minimize
881 damages resulting from pollution in violation of this chapter,
882 if the waters of the state are polluted by the drilling, storage
883 of natural gas, or production operations of any person or
884 persons and such pollution damages or threatens to damage human,
885 animal, or plant life, public or private property, or any
886 mineral or water-bearing formation, said person shall be liable
887 to the state for all costs of cleanup or other damage incurred
888 by the state. In any suit to enforce claims of the state under
889 this chapter, it is ~~shall~~ not ~~be~~ necessary for the state to
890 plead or prove negligence in any form or manner on the part of
891 the person or persons conducting the drilling or production
892 operations; the state need only plead and prove the fact of the
893 prohibited discharge or other polluting condition and that it
894 occurred at the facilities of the person or persons conducting
895 the drilling or production operation. A ~~No~~ person or persons
896 conducting the drilling, storage, or production operation may

897 | not shall be held liable if said person or persons prove that
 898 | the prohibited discharge or other polluting condition was the
 899 | result of any of the following:

- 900 | (a) An act of war.
- 901 | (b) An act of government, either state, federal, or
 902 | municipal.
- 903 | (c) An act of God, which means an unforeseeable act
 904 | exclusively occasioned by the violence of nature without the
 905 | interference of any human agency.
- 906 | (d) An act or omission of a third party without regard to
 907 | whether any such act or omission was or was not negligent.

908 | Section 24. Paragraph (b) of subsection (14) and paragraph
 909 | (b) of subsection (19) of section 403.973, Florida Statutes are
 910 | amended, and paragraphs (g) and (h) are added to subsection (3)
 911 | of that section, to read:

912 | 403.973 Expedited permitting; amendments to comprehensive
 913 | plans.—

- 914 | (3)
- 915 | (g) Projects for natural gas storage facilities that are
 916 | permitted under chapter 377 are eligible for the expedited
 917 | permitting process.
- 918 | (h) Projects to construct interstate natural gas pipelines
 919 | subject to certification by the Federal Energy Regulatory
 920 | Commission.

- 921 | (14)
- 922 | (b) Projects identified in paragraphs ~~paragraph~~ (3) (f) - (h)
 923 | or challenges to state agency action in the expedited permitting
 924 | process for establishment of a state-of-the-art biomedical

925 research institution and campus in this state by the grantee
 926 under s. 288.955 are subject to the same requirements as
 927 challenges brought under paragraph (a), except that,
 928 notwithstanding s. 120.574, summary proceedings must be
 929 conducted within 30 days after a party files the motion for
 930 summary hearing, regardless of whether the parties agree to the
 931 summary proceeding.

932 (19) The following projects are ineligible for review under
 933 this part:

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

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

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

941 3. Extract natural resources.

942 4. Produce oil.

943 5. Construct, maintain, or operate an oil, petroleum,
 944 ~~natural gas,~~ or sewage pipeline.

945 Section 25. The Department of Environmental Protection is
 946 not required to adopt rules relating to natural gas storage
 947 before July 1, 2015. However, subject to satisfying all
 948 conditions or requirements under this act, the department may
 949 issue a permit for a natural gas storage facility regardless of
 950 whether the department has adopted rules for the activities or
 951 operations authorized under this act.

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