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CS/CS/CS/HB 1083

2013 Legislature

1
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; amending
17 s. 377.24, F.S.; providing for the notice and
18 permitting of storage in and recovery from natural gas
19 storage reservoirs; creating s. 377.2407, F.S.;
20 establishing a natural gas storage facility permit
21 application process; specifying requirements for an
22 application, including fees; amending s. 377.241,
23 F.S.; providing criteria that the division must
24 consider in issuing permits; amending s. 377.242,
25 F.S.; granting authority to the department to issue
26 permits to establish natural gas storage facilities;
27 creating s. 377.2431, F.S.; establishing conditions
28 and procedures for granting natural gas storage

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29 facility permits; prohibiting the issuance of permits
30 for facilities located in specified areas; creating s.
31 377.2432, F.S.; providing for the protection of water
32 supplies at natural gas storage facilities; providing
33 that an operator is presumed responsible for pollution
34 of an underground water supply under certain
35 circumstances; creating s. 377.2433, F.S.; providing
36 for the protection of natural gas storage facilities
37 through requirement of notice, compliance with certain
38 standards, and a right of entry to monitor activities;
39 creating s. 377.2434, F.S.; providing that property
40 rights to injected natural gas are with the injector
41 or the injector's heirs, successors, or assigns;
42 providing for compensation to the owner of the stratum
43 and the owner of the surface for use of or damage to
44 the surface or substratum; amending s. 377.25, F.S.;

45 limiting the scope of certain drilling unit
46 requirements; amending s. 377.28, F.S.; modifying
47 situations in which the department is required to
48 issue an order requiring unit operation; amending s.
49 377.30, F.S.; providing that limitations on the amount
50 of oil or gas taken do not apply to nonnative gas
51 recovered from a permitted natural gas storage
52 facility; amending s. 377.34, F.S.; providing for
53 legal action against a person who appears to be
54 violating a rule that relates to the storage or
55 recovery of natural gas; amending s. 377.37, F.S.;

56 expanding penalties to reach persons who violate the

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57 | terms of a permit relating to storage of gas in a
58 | natural gas storage facility; amending s. 377.371,
59 | F.S.; providing that a person storing gas in a natural
60 | gas storage facility may not pollute or otherwise
61 | damage certain areas and that a person who pollutes
62 | water by storing natural gas is liable for cleanup or
63 | other costs incurred by the state; amending s.
64 | 403.973, F.S.; allowing expedited permitting for
65 | natural gas storage facilities permitted under ch.
66 | 377, F.S., and certain projects to construct
67 | interstate natural gas pipelines; providing that
68 | natural gas storage facilities are subject to certain
69 | requirements; directing the department to adopt
70 | certain rules before issuing permits for natural gas
71 | storage facilities; providing an effective date.

72 |

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

74 |

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

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

79 | 211.02 Oil production tax; basis and rate of tax; tertiary
80 | oil and mature field recovery oil.—An excise tax is hereby
81 | levied upon every person who severs oil in the state for sale,
82 | transport, storage, profit, or commercial use. Except as
83 | otherwise provided in this part, the tax is levied on the basis
84 | of the entire production of oil in this state, including any

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85 royalty interest. Such tax shall accrue at the time the oil is
86 severed and shall be a lien on production regardless of the
87 place of sale, to whom sold, or by whom used, and regardless of
88 the fact that delivery of the oil may be made outside the state.

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

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

96 211.025 Gas production tax; basis and rate of tax.—An
97 excise tax is hereby levied upon every person who severs gas in
98 the state for sale, transport, profit, or commercial use. Except
99 as otherwise provided in this part, the tax shall be levied on
100 the basis of the entire production of gas in this state,
101 including any royalty interest. Such tax shall accrue at the
102 time the gas is severed and shall be a lien on production
103 regardless of the place of sale, to whom sold, or by whom used
104 and regardless of the fact that delivery of the gas may be made
105 outside the state.

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

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

110 376.301 Definitions of terms used in ss. 376.30-376.317,
111 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
112 376.75, unless the context clearly requires otherwise, the term:

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113 (36) "Pollutants" includes any "product" as defined in s.
114 377.19(11), pesticides, ammonia, chlorine, and derivatives
115 thereof, excluding liquefied petroleum gas.

116 Section 5. Section 377.06, Florida Statutes, is amended to
117 read:

118 377.06 Public policy of state concerning natural resources
119 of oil and gas.—It is hereby declared ~~to be~~ the public policy of
120 this the state to conserve and control the natural resources of
121 oil and gas in this said state, and the products made from oil
122 and gas in this state therefrom; to prevent waste of ~~said~~
123 natural resources; to provide for the protection and adjustment
124 of the correlative rights of the owners of the land in which the
125 ~~wherein said~~ natural resources lie, of and the owners and
126 producers of oil and gas resources and the products made from
127 oil and gas therefrom, and of others interested in these
128 resources and products therein; to safeguard the health,
129 property, and public welfare of the residents citizens of this
130 ~~said~~ state and other interested persons and for all purposes
131 indicated by the provisions in this section herein. Further, it
132 is declared that underground storage of natural gas is in the
133 public interest because underground storage promotes
134 conservation of natural gas; makes gas more readily available to
135 the domestic, commercial, and industrial consumers of this
136 state; and allows the accumulation of large quantities of gas in
137 reserve for orderly withdrawal during emergencies or periods of
138 peak demand. It is not the intention of this section to limit,
139 ~~or~~ restrict, or modify in any way the provisions of this law.

140 Section 6. Section 377.18, Florida Statutes, is amended to

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141 read:

142 377.18 Common sources of oil and gas.—All common sources
143 of supply of oil or native and gas ~~or either of them~~ shall have
144 the production ~~therefrom~~ controlled or regulated in accordance
145 with the provisions of this law.

146 Section 7. Section 377.19, Florida Statutes, is reordered
147 and amended to read:

148 377.19 Definitions.—As used ~~Unless the context otherwise~~
149 ~~requires, the words defined in this section shall have the~~
150 ~~following meanings when found in ss. 377.06, 377.07, and 377.10-~~
151 377.40, the term:

152 (1) ~~(21)~~ "Completion date" means the day, month, and year
153 that a new productive well, a previously shut-in well, or a
154 temporarily abandoned well is completed, repaired, or
155 recompleted and the operator begins producing oil or gas in
156 commercial quantities.

157 (2) "Department" means the Department of Environmental
158 Protection.

159 (3) ~~(1)~~ "Division" means the Division of Resource
160 Management of the Department of Environmental Protection.

161 (4) ~~(7)~~ "Field" means the general area that ~~which~~ is
162 underlaid, or appears to be underlaid, by at least one pool. The
163 term; ~~and "field"~~ includes the underground reservoir, or
164 reservoirs, containing oil or gas, or both. The terms ~~words~~
165 "field" and "pool" mean the same thing if ~~when~~ only one
166 underground reservoir is involved; however, the term "field,"
167 unlike the term "pool," may relate to two or more pools.

168 (5) "Gas" means all natural gas, including casinghead gas,

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169 and all other hydrocarbons not defined as oil in subsection (4).

170 ~~(6)-(25)~~ "Horizontal well" means a well completed with the
171 wellbore in a horizontal or nearly horizontal orientation within
172 10 degrees of horizontal within the producing formation.

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

179 ~~(8)-(12)~~ "Illegal oil" means oil that ~~which~~ has been
180 produced within the state from any well or wells in excess of
181 the amount allowed by rule, regulation, or order of the
182 division, as distinguished from oil produced within the state
183 from a well not producing in excess of the amount so allowed,
184 which is "legal oil."

185 ~~(9)-(14)~~ "Illegal product" means a ~~any~~ product of oil or
186 gas, any part of which was processed or derived, in whole or in
187 part, from illegal gas or illegal oil or from any product
188 thereof, as distinguished from "legal product," which is a
189 product processed or derived to no extent from illegal oil or
190 illegal gas.

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

195 ~~(11)~~ "Native gas" means gas that occurs naturally within
196 this state and does not include gas produced outside the state,

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197 | transported to this state, and injected into a permitted natural
198 | gas storage facility.

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

214 | (13) "Natural gas storage reservoir" means a pool or field
215 | from which gas or oil has previously been produced and which is
216 | suitable for or capable of being made suitable for the
217 | injection, storage, and recovery of gas, as identified in a
218 | permit application submitted to the department under s.
219 | 377.2407.

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

223 | (15)~~(4)~~ "Oil" means crude petroleum oil and other
224 | hydrocarbons, regardless of gravity, which are produced at the

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225 well in liquid form by ordinary production methods, and which
226 are not the result of condensation of gas after it leaves the
227 reservoir.

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

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

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

236 ~~(18)-(20)~~ "Operator" means the entity who:

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

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

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

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

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

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253 separate pool as used herein.

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

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

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

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

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

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

279 (28)~~(2)~~ "State" means the State of Florida.

280 (29)~~(23)~~ "Temporarily abandoned well" means a permitted

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281 well or wellbore that has been abandoned by plugging in a manner
282 that allows reentry and redevelopment in accordance with oil or
283 gas rules of the Department of Environmental Protection.

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

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

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

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

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

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

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

308 (f) The underground waste, however caused and whether or

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309 not defined.

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) Permitting gas produced from a gas well to escape into
316 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 to read:

338 377.22 Rules and orders.—

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

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

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

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

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

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

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

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

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

391 (i) To prevent wells from being drilled, operated, or
392 produced in such a manner as to cause injury to neighboring

393 | leases, ~~or~~ property, or natural gas storage reservoirs.

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

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

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

404 | (m) To prevent fires.

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

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

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

413 | (q) To regulate gas cycling operations.

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

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

419 | (t)~~(s)~~ To require, either generally or in or from
420 | particular areas, certificates of clearance or tenders in

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421 connection with the transportation or delivery of oil or gas, or
422 any product.

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

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

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

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

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

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

439 377.24 Notice of intention to drill well; permits;
440 abandoned wells and dry holes.—

441 (1) Before drilling a ~~any~~ well in search of oil or gas, or
442 before storing gas in or recovering gas from a natural gas
443 storage reservoir ~~shall be drilled~~, the person who desires
444 ~~desiring~~ to drill for, store, or recover gas, or drill for oil
445 or gas, ~~the same~~ shall notify the division upon such form as it
446 may prescribe and shall pay a reasonable fee set by rule of the
447 department not to exceed the actual cost of processing and
448 inspecting for each well or reservoir. The drilling of any well

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449 and the storing and recovering of gas are ~~is hereby~~ prohibited
450 until such notice is given, the ~~and such fee is~~ has been paid,
451 and the permit is granted.

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

461 Section 11. Section 377.2407, Florida Statutes, is created
462 to read:

463 377.2407 Natural gas storage facility permit application
464 to inject gas into and recover gas from a natural gas storage
465 reservoir.-

466 (1) Before drilling a well to inject gas into and recover
467 gas from a natural gas storage reservoir, the person who desires
468 to conduct such operation shall apply to the department in the
469 manner described in this section using such form as the
470 department may prescribe to obtain a natural gas storage
471 facility permit. The department shall also require any applicant
472 seeking to obtain such permit to pay a reasonable permit
473 application fee. Such fee must be in an amount necessary to
474 cover the costs associated with receiving, processing, issuing,
475 and recertifying the permit application, and inspecting for
476 compliance with the permit.

- 477 (2) Each application must contain:
- 478 (a) A detailed, three-dimensional description of the
 479 natural gas storage reservoir, including geologic-based
 480 descriptions of the reservoir boundaries, and the horizontal and
 481 vertical dimensions.
- 482 (b) A geographic description of the lateral storage
 483 reservoir boundary.
- 484 (c) A general description and location of all injection,
 485 recovery, withdrawal-only, and observation wells.
- 486 (d) A description of the reservoir protective area.
- 487 (e) Information demonstrating that the proposed natural
 488 gas storage reservoir is suitable for the storage and recovery
 489 of gas.
- 490 (f) Information identifying all reasonably known abandoned
 491 or active wells within the natural gas storage facility.
- 492 (g) A field-monitoring plan that requires, at a minimum,
 493 monthly field inspections of all wells that are part of the
 494 natural gas storage facility.
- 495 (h) A monitoring and testing plan for the well integrity.
- 496 (i) A well inspection plan that requires, at a minimum,
 497 the inspection of all wells that are part of the natural gas
 498 storage facility and plugged wells within the natural gas
 499 storage facility boundary.
- 500 (j) A spill prevention and response plan.
- 501 (k) A well spacing plan.
- 502 (l) An operating plan for the natural gas storage
 503 reservoir, which must include gas capacities, anticipated
 504 operating conditions, and maximum storage pressure.

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505 (m) A gas migration response plan.

506 (n) A location plat and general facility map surveyed and
507 prepared by a registered land surveyor licensed under chapter
508 472.

509 (3) The department may require the applicant to provide
510 additional information that is deemed necessary to permit the
511 development of the natural gas storage facility. Each well
512 related to the natural gas storage facility shall be authorized
513 and permitted individually upon the applicant's satisfying
514 applicable well construction and operation criteria under this
515 part; however, notwithstanding any other provision of this
516 chapter, well spacing requirements do not apply.

517 Section 12. Subsection (4) is added to section 377.241,
518 Florida Statutes, to read:

519 377.241 Criteria for issuance of permits.—The division, in
520 the exercise of its authority to issue permits as hereinafter
521 provided, shall give consideration to and be guided by the
522 following criteria:

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

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

530 377.242 Permits for drilling or exploring and extracting
531 through well holes or by other means.—The department is vested
532 with the power and authority:

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533 (3) To issue permits to establish natural gas storage
 534 facilities or construct wells for the injection and recovery of
 535 any natural gas for ~~temporary~~ storage in natural gas storage
 536 ~~subsurface~~ reservoirs.

537
 538 Each permit shall contain an agreement by the permitholder that
 539 the permitholder will not prevent inspection by division
 540 personnel at any time. The provisions of this section
 541 prohibiting permits for drilling or exploring for oil in coastal
 542 waters do not apply to any leases entered into before June 7,
 543 1991.

544 Section 14. Section 377.2431, Florida Statutes, is created
 545 to read:

546 377.2431 Conditions for granting permits for natural gas
 547 storage facilities.-

548 (1) A natural gas storage facility permit shall authorize
 549 the construction and operation of a natural gas storage facility
 550 and must be issued for the life of the facility, subject to
 551 recertification every 10 years.

552 (2) Before issuing or recertifying a permit, the
 553 department shall require satisfactory evidence of the following:

554 (a) The applicant has implemented, or is in the process of
 555 implementing, programs for the control and mitigation of
 556 pollution related to oil, petroleum products or their
 557 byproducts, and other pollutants.

558 (b) The applicant or operator has acquired a lawful right
 559 to drill, explore, or develop a natural gas storage reservoir
 560 from owners of at least 75 percent of the storage rights within

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561 the natural gas storage reservoir or the applicant or operator
562 has obtained a certificate of public convenience and necessity
563 for the natural gas storage reservoir from the Federal Energy
564 Regulatory Commission pursuant to the Natural Gas Act, 15 U.S.C.
565 ss. 717 et seq.

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

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

581 (e) A determination has been made whether native gas or
582 oil will be severed from below the soil or water of this state
583 in the recovery of injected gas. If native gas or oil will be
584 severed, the applicant or operator must acquire a lawful right
585 to develop the native gas or oil before injecting gas into the
586 natural gas storage reservoir.

587 (3) The applicant shall maintain records of well pressures
588 recorded monthly, and monthly volumes of gas injected into and

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589 withdrawn from the reservoir. These records shall be maintained
590 at the natural gas storage facility and shall be made available
591 for inspection by the department at any reasonable time.

592 (4) (a) The maximum storage pressure for a natural gas
593 storage reservoir shall be the highest shut-in bottom hole
594 pressure found to exist during the production history of the
595 reservoir, unless a higher pressure is established by the
596 department based on testing of caprock and pool containment. The
597 methods used for determining the higher pressure must be
598 approved by the department.

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

605 (5) A permit may not be issued for a natural gas storage
606 facility that includes a natural gas storage reservoir located
607 beneath an underground source of drinking water unless the
608 applicant demonstrates that the injection, storage, or recovery
609 of natural gas will not cause or allow natural gas to migrate
610 into the underground source of drinking water; in any offshore
611 location in the Gulf of Mexico, the Straits of Florida, or the
612 Atlantic Ocean; or in any solution-mined cavern within a salt
613 formation.

614 (6) A natural gas storage facility permit issued by the
615 department must contain a condition that requires the permittee
616 to obtain the lawful right to develop a natural gas storage

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617 reservoir from the owners of 100 percent of the storage rights
618 within the natural gas storage reservoir.

619 Section 15. Section 377.2432, Florida Statutes, is created
620 to read:

621 377.2432 Natural gas storage facilities; protection of
622 water supplies.—

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

631 (2) Unless rebutted by a defense established in subsection
632 (4), a natural gas storage facility operator is presumed
633 responsible for pollution of an underground water supply if:

634 (a) The water supply is within the lateral boundary of the
635 natural gas storage facility; and

636 (b) The pollution occurred within 6 months after
637 completion of drilling or alteration of any well under or
638 associated with the natural gas storage facility permit or the
639 initial injection of gas into the natural gas storage reservoir,
640 whichever is later.

641 (3) If the affected underground water supply is within the
642 rebuttable presumption area as provided in subsection (2) and
643 the rebuttable presumption applies, the natural gas storage
644 facility operator shall provide a temporary water supply if the

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645 water user is without a readily available alternative source of
646 water at no cost to the owner or user of the affected water
647 supply. The temporary water supply provided under this
648 subsection must be adequate in quantity and quality for the
649 purposes served by the affected supply.

650 (4) A natural gas storage facility operator rebuts the
651 presumption in subsection (2) by affirmatively proving any of
652 the following:

653 (a) The pollution existed before the drilling or
654 alteration activity as determined by a predrilling or
655 prealteration survey.

656 (b) The landowner or water purveyor refused to allow the
657 operator access to conduct a predrilling or prealteration
658 survey.

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

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

664 (e) The pollution occurred as the result of a cause other
665 than activities authorized under the natural gas storage
666 facility permit.

667 (5) A natural gas storage facility operator electing to
668 preserve a defense under subsection (4) must retain an
669 independent certified laboratory to conduct a predrilling or
670 prealteration survey of the water supply. A copy of survey
671 results must be submitted to the department and the landowner or
672 water purveyor in the manner prescribed by the department.

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673 (6) A natural gas storage facility operator must provide
674 written notice to the landowner or water purveyor indicating
675 that the presumption established under subsection (2) may be
676 void if the landowner or water purveyor refused to allow the
677 operator access to conduct a predrilling or prealteration
678 survey. Proof of written notice to the landowner or water
679 purveyor must be provided to the department in order for the
680 operator to retain the protections under subsection (4).

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

684 Section 16. Section 377.2433, Florida Statutes, is created
685 to read:

686 377.2433 Protection of natural gas storage facilities;
687 remedies.—

688 (1) The department may not authorize the drilling of any
689 well into or through a permitted natural gas storage reservoir
690 or reservoir protective area, except upon conditions deemed by
691 the department to be sufficient to prevent the loss, migration,
692 or escape of gas from the natural gas storage reservoir. The
693 department shall provide written notice to the natural gas
694 storage facility operator of any application filed with the
695 department and any agency action taken related to drilling a
696 well into or through a permitted natural gas storage facility
697 boundary or reservoir protective area.

698 (2) As a condition for the issuance of a permit by the
699 department, an applicant seeking to drill a well into or through
700 a permitted natural gas storage facility boundary or reservoir

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701 protective area must provide the affected natural gas storage
702 facility operator a reasonable right of entry to observe and
703 monitor all drilling activities.

704 (3) The department shall require by permit condition that
705 any well drilled into or through a permitted natural gas storage
706 reservoir or reservoir protective area is cased and cemented in
707 a manner sufficient to protect the integrity of the natural gas
708 storage reservoir.

709 Section 17. Section 377.2434, Florida Statutes, is created
710 to read:

711 377.2434 Property rights to injected natural gas.—

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

717 (2) Such gas may not be subject to the right of the owner
718 of the surface of the lands or of any mineral interest therein,
719 under which the natural gas storage facilities lie, or to the
720 right of any person, other than the injector or the injector's
721 heirs, successors, or assigns, to waste or otherwise interfere
722 with or exercise control over such gas, to produce, to take, or
723 to reduce to possession, by means of the law of capture or
724 otherwise. This subsection does not affect the ownership of
725 hydrocarbons occurring naturally within this state or the right
726 of the owner of the surface of the lands or of any mineral
727 interest therein to drill or bore through the natural gas
728 storage facilities in a manner that will protect the facilities

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729 against pollution or the escape of stored natural gas.

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

733 (a) The injector or the injector's heirs, successors, or
734 assigns:

735 1. May not lose title to or possession of the gas if the
736 injector or the injector's heirs, successors, or assigns can
737 prove by a preponderance of the evidence that the gas was
738 originally injected into the underground storage; and

739 2. Have the right to conduct tests on any existing wells
740 on adjoining property as may be reasonable to determine
741 ownership of the gas, but the tests are solely at the injector's
742 risk and expense.

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

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

748 377.25 Production pools; drilling units.—

749 (3) Each well permitted to be drilled upon any drilling
750 unit shall be drilled approximately in the center thereof, with
751 such exception as may be reasonably necessary where the division
752 finds that the unit is partly outside the pool or, for some
753 other reason, a well approximately in the center of the unit
754 would be nonproductive or where topographical conditions are
755 such as to make the drilling approximately in the center of the
756 unit unduly burdensome or where the operator proposes to

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757 complete the well with a horizontal or nearly horizontal well in
 758 the producing zone. Whenever an exception is granted, the
 759 division shall take such action as will offset any advantage
 760 which the person securing the exception may have over other
 761 producers by reason of the drilling of the well as an exception,
 762 and so that drainage from developed units to the tract, with
 763 respect to which the exception is granted, will be prevented or
 764 minimized, and the producer of the well drilled, as an
 765 exception, will be allowed to produce no more than his or her
 766 just and equitable share of the oil and gas in the pool, as such
 767 share is set forth in this section. This subsection does not
 768 apply to wells associated with a natural gas storage facility.

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

771 377.28 Cycling, pooling, and unitization of oil and gas.—

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

774 (a) Unit operation of the field, or of any pool or pools,
 775 portion or portions, or combinations thereof within the field,
 776 is reasonably necessary to prevent waste, to avoid the drilling
 777 of unnecessary wells, or to increase the ultimate recovery of
 778 oil or gas by additional recovery methods; ~~and~~

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

782 (c) The additional recovery of oil or gas does not
 783 adversely interfere with the storage or recovery of natural gas
 784 within a natural gas storage reservoir.

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785
786 The phrase "additional recovery methods" as used herein
787 includes, but is not limited to, the maintenance or partial
788 maintenance of reservoir pressures; recycling; flooding a pool
789 or pools, or parts thereof, with air, gas, water, liquid
790 hydrocarbons, any other substance, or any combination thereof;
791 or any other method of producing additional hydrocarbons
792 approved by the department.

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

795 377.30 Limitation on amount of oil or gas taken.—

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

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

800 377.34 Actions and injunctions by division.—

801 (1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is
802 violating, or threatening to violate, any statute of this state
803 with respect to the conservation of oil or gas, or both, or any
804 provision of this law, or any rule, regulation or order made
805 ~~thereunder~~ by any act done in the operation of a ~~any~~ well
806 producing oil or gas, or storing or recovering natural gas, or
807 by omitting an ~~any~~ act required to be done ~~thereunder~~, the
808 division, through its counsel, or the Department of Legal
809 Affairs on its own initiative, may bring suit against such
810 person in the Circuit Court in the County of Leon, state, or in
811 the circuit court in the county in which the well in question is
812 located, at the option of the division, or the Department of

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813 | Legal Affairs, to restrain such person or persons from
 814 | continuing such violation or from carrying out the threat of
 815 | violation. In such suit, the division, or the Department of
 816 | Legal Affairs, may obtain injunctions, prohibitory and
 817 | mandatory, including temporary restraining orders and temporary
 818 | injunctions, as the facts may warrant, including, when
 819 | appropriate, an injunction restraining any person from moving or
 820 | disposing of illegal oil, illegal gas or illegal product, and
 821 | any or all such commodities may be ordered to be impounded or
 822 | placed under the control of a receiver appointed by the court
 823 | if, in the judgment of the court, such action is advisable.

824 | Section 22. Paragraph (a) of subsection (1) of section
 825 | 377.37, Florida Statutes, is amended to read:

826 | 377.37 Penalties.—

827 | (1) (a) Any person who violates any provision of this law
 828 | or any rule, regulation, or order of the division made under
 829 | this chapter or who violates the terms of any permit to drill
 830 | for or produce oil, gas, or other petroleum products referred to
 831 | in s. 377.242(1)~~7~~ or to store gas in a natural gas storage
 832 | facility, or any lessee, permitholder, or operator of equipment
 833 | or facilities used in the exploration for, drilling for, or
 834 | production of oil, gas, or other petroleum products, or storage
 835 | of gas in a natural gas storage facility, who refuses inspection
 836 | by the division as provided in this chapter, is liable to the
 837 | state for any damage caused to the air, waters, or property,
 838 | including animal, plant, or aquatic life, of the state and for
 839 | reasonable costs and expenses of the state in tracing the source
 840 | of the discharge, in controlling and abating the source and the

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841 | pollutants, and in restoring the air, waters, and property,
842 | including animal, plant, and aquatic life, of the state.
843 | Furthermore, such person, lessee, permitholder, or operator is
844 | subject to the judicial imposition of a civil penalty in an
845 | amount of not more than \$10,000 for each offense. However, the
846 | court may receive evidence in mitigation. Each day during any
847 | portion of which such violation occurs constitutes a separate
848 | offense. Nothing herein shall give the department the right to
849 | bring an action on behalf of any private person.

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

852 | 377.371 Pollution prohibited; reporting, liability.—

853 | (1) A ~~No~~ person drilling for or producing oil, gas, or
854 | other petroleum products, or storing gas in a natural gas
855 | storage facility, may not ~~shall~~ pollute land or water; damage
856 | aquatic or marine life, wildlife, birds, or public or private
857 | property; or allow any extraneous matter to enter or damage any
858 | mineral or freshwater-bearing formation.

859 | (3) Because it is the intent of this chapter to provide
860 | the means for rapid and effective cleanup and to minimize
861 | damages resulting from pollution in violation of this chapter,
862 | if the waters of the state are polluted by the drilling, storage
863 | of natural gas, or production operations of any person or
864 | persons and such pollution damages or threatens to damage human,
865 | animal, or plant life, public or private property, or any
866 | mineral or water-bearing formation, said person shall be liable
867 | to the state for all costs of cleanup or other damage incurred
868 | by the state. In any suit to enforce claims of the state under

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869 | this chapter, it is ~~shall~~ not ~~be~~ necessary for the state to
 870 | plead or prove negligence in any form or manner on the part of
 871 | the person or persons conducting the drilling or production
 872 | operations; the state need only plead and prove the fact of the
 873 | prohibited discharge or other polluting condition and that it
 874 | occurred at the facilities of the person or persons conducting
 875 | the drilling or production operation. A ~~No~~ person or persons
 876 | conducting the drilling, storage, or production operation may
 877 | not ~~shall~~ be held liable if said person or persons prove that
 878 | the prohibited discharge or other polluting condition was the
 879 | result of any of the following:

- 880 | (a) An act of war.
- 881 | (b) An act of government, either state, federal, or
 882 | municipal.
- 883 | (c) An act of God, which means an unforeseeable act
 884 | exclusively occasioned by the violence of nature without the
 885 | interference of any human agency.
- 886 | (d) An act or omission of a third party without regard to
 887 | whether any such act or omission was or was not negligent.

888 | Section 24. Paragraph (b) of subsection (14) and paragraph
 889 | (b) of subsection (19) of section 403.973, Florida Statutes, are
 890 | amended, and paragraphs (g) and (h) are added to subsection (3)
 891 | of that section, to read:

892 | 403.973 Expedited permitting; amendments to comprehensive
 893 | plans.—

- 894 | (3)
- 895 | (g) Projects for natural gas storage facilities that are
 896 | permitted under chapter 377 are eligible for the expedited

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897 permitting process.

898 (h) Projects to construct interstate natural gas pipelines
899 subject to certification by the Federal Energy Regulatory
900 Commission are eligible for the expedited permitting process.

901 (14)

902 (b) Projects identified in paragraphs ~~paragraph~~ (3) (f) - (h)
903 or challenges to state agency action in the expedited permitting
904 process for establishment of a state-of-the-art biomedical
905 research institution and campus in this state by the grantee
906 under s. 288.955 are subject to the same requirements as
907 challenges brought under paragraph (a), except that,
908 notwithstanding s. 120.574, summary proceedings must be
909 conducted within 30 days after a party files the motion for
910 summary hearing, regardless of whether the parties agree to the
911 summary proceeding.

912 (19) The following projects are ineligible for review
913 under this part:

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

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

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

921 3. Extract natural resources.

922 4. Produce oil.

923 5. Construct, maintain, or operate an oil, petroleum,
924 ~~natural gas,~~ or sewage pipeline.

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925 Section 25. The Department of Environmental Protection
926 shall adopt rules relating to natural gas storage before issuing
927 a natural gas storage facility permit.

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