

By Senator Richter

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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.; making grammatical changes;
9 declaring underground natural gas storage to be in the
10 public interest; amending s. 377.18, F.S.; clarifying
11 common sources of oil and gas; amending s. 377.19,
12 F.S.; modifying and providing definitions; amending s.
13 377.21, F.S.; extending the jurisdiction of the
14 Division of Resource Management of the Department of
15 Environmental Protection; amending s. 377.22, F.S.;
16 expanding the scope of the department's rules and
17 orders; providing that the department's authority must
18 be self-executing and that a regulatory action may not
19 be deemed invalid solely because the department has
20 not yet adopted a certain rule; amending s. 377.24,
21 F.S.; providing for the notice and permitting of
22 storage in and recovery from natural gas storage
23 reservoirs; creating s. 377.2407, F.S.; establishing a
24 natural gas storage facility permit application
25 process; specifying requirements for an application,
26 including fees; amending s. 377.241, F.S.; providing
27 criteria that the division must consider in issuing
28 permits; amending s. 377.242, F.S.; granting authority
29 to the department to issue permits to establish

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30 natural gas storage facilities; creating s. 377.2431,
31 F.S.; establishing conditions and procedures for
32 granting natural gas storage facility permits;
33 limiting the right of a county or municipality to
34 regulate natural gas storage facilities; creating s.
35 377.2432, F.S.; providing for the protection of water
36 supplies at natural gas storage facilities; providing
37 that an operator is presumed responsible for pollution
38 of an underground water supply under certain
39 circumstances; creating s. 377.2433, F.S.; providing
40 for the protection of natural gas storage facilities
41 through an administrative hearing; creating s.
42 377.2434, F.S.; providing that property rights to
43 injected natural gas are with the injector or the
44 injector's heirs, successors, or assigns; providing
45 for compensation to the owner of the stratum and the
46 owner of the surface for use of or damage to the
47 surface or substratum; amending s. 377.25, F.S.;

48 limiting the scope of certain drilling unit
49 requirements; amending s. 377.28, F.S.; providing that
50 the department may consider the need for the operation
51 as a unit for the storage of natural gas; modifying
52 situations in which the department is required to
53 issue an order requiring unit operation; amending s.
54 377.29, F.S.; authorizing certain agreements between
55 owners and operators of a natural gas storage
56 facility; amending s. 377.30, F.S.; providing that
57 limitations on the amount of oil or gas taken do not
58 apply to nonnative gas recovered from a permitted

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59 natural gas storage facility; amending s. 377.34,
60 F.S.; providing for legal action against a person who
61 appears to be violating a rule that relates to the
62 storage or recovery of natural gas; amending s.
63 377.37, F.S.; expanding penalties to reach persons who
64 violate the terms of a permit relating to storage of
65 gas in a natural gas storage facility; amending s.
66 377.371, F.S.; providing that a person storing gas in
67 a natural gas storage facility may not pollute or
68 otherwise damage certain areas and that a person who
69 pollutes water by storing natural gas is liable for
70 cleanup or other costs incurred by the state; amending
71 s. 403.973, F.S.; allowing expedited permitting for
72 natural gas storage facilities permitted under ch.
73 377, F.S.; providing that natural gas storage
74 facilities are subject to certain requirements;
75 providing an effective date.

76

77 Be It Enacted by the Legislature of the State of Florida:

78

79 Section 1. This act may be cited as the "Florida
80 Underground Natural Gas Storage Act."

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

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

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

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

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

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

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

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

114 376.301 Definitions of terms used in ss. 376.30-376.317,
115 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and
116 376.75, unless the context clearly requires otherwise, the term:

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117 (36) "Pollutants" includes any "product" as defined in s.
118 377.19(11), pesticides, ammonia, chlorine, and derivatives
119 thereof, excluding liquefied petroleum gas.

120 Section 5. Section 377.06, Florida Statutes, is amended to
121 read:

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

144 Section 6. Section 377.18, Florida Statutes, is amended to
145 read:

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

150 Section 7. Section 377.19, Florida Statutes, is reordered
151 and amended to read:

152 377.19 Definitions.—As used ~~Unless the context otherwise~~
153 ~~requires, the words defined in this section shall have the~~
154 ~~following meanings when found~~ in ss. 377.06, 377.07, and 377.10-
155 377.40, the term:

156 (3)~~(1)~~ "Division" means the Division of Resource Management
157 of the Department of Environmental Protection.

158 (28)~~(2)~~ "State" means the State of Florida.

159 (20)~~(3)~~ "Person" means a ~~any~~ natural person, corporation,
160 association, partnership, receiver, trustee, guardian, executor,
161 administrator, fiduciary, or representative of any kind.

162 (15)~~(4)~~ "Oil" means crude petroleum oil and other
163 hydrocarbons, regardless of gravity, which are produced at the
164 well in liquid form by ordinary production methods, and which
165 are not the result of condensation of gas after it leaves the
166 reservoir.

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

169 (21)~~(6)~~ "Pool" means an underground reservoir containing or
170 appearing to contain a common accumulation of oil or gas or
171 both. Each zone of a general structure which is completely
172 separated from any other zone on the structure is considered a
173 separate pool as used herein.

174 (4)~~(7)~~ "Field" means the general area that ~~which~~ is

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175 underlaid, or appears to be underlaid, by at least one pool. The
 176 term; ~~and "field"~~ includes the underground reservoir, or
 177 reservoirs, containing oil or gas, or both. The terms ~~words~~
 178 "field" and "pool" mean the same thing if ~~when~~ only one
 179 underground reservoir is involved; however, the term "field,"
 180 unlike the term "pool," may relate to two or more pools.

181 (19) ~~(8)~~ "Owner" means the person who has the right to drill
 182 into and to produce from any pool and to appropriate the
 183 production ~~either~~ for the person or for the person and another,
 184 or others.

185 (22) ~~(9)~~ "Producer" means the owner or operator of a well or
 186 wells capable of producing oil or gas, or both.

187 (31) ~~(10)~~ "Waste," in addition to its ordinary meaning,
 188 means "physical waste" as that term is generally understood in
 189 the oil and gas industry. The term "waste" includes:

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

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

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

203 (d) The operation of any oil well or wells with an

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204 inefficient gas-oil ratio.

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

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

210 (g) The creation of unnecessary fire hazards.

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

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

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

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

221 ~~(23)-(11)~~ "Product" means a ~~any~~ commodity made from oil or
222 gas and includes refined crude oil, crude tops, topped crude,
223 processed crude petroleum, residue from crude petroleum,
224 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,
225 residuum, gas oil, casinghead gasoline, natural gas gasoline,
226 naphtha, distillate, condensate, gasoline, waste oil, kerosene,
227 benzine, wash oil, blended gasoline, lubricating oil, blends or
228 mixtures of oil with one or more liquid products or byproducts
229 derived from oil or gas, and blends or mixtures of two or more
230 liquid products or byproducts derived from oil or gas, whether
231 hereinabove enumerated or not.

232 ~~(8)-(12)~~ "Illegal oil" means oil that ~~which~~ has been

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233 produced within the state from any well or wells in excess of
234 the amount allowed by rule, regulation, or order of the
235 division, as distinguished from oil produced within the state
236 from a well not producing in excess of the amount so allowed,
237 which is "legal oil."

238 (7)~~(13)~~ "Illegal gas" means gas that ~~which~~ has been
239 produced within the state from any well or wells in excess of
240 the amount allowed by any rule, regulation, or order of the
241 division, as distinguished from gas produced within the State of
242 Florida from a well not producing in excess of the amount so
243 allowed, which is "legal gas."

244 (9)~~(14)~~ "Illegal product" means a ~~any~~ product of oil or
245 gas, any part of which was processed or derived, in whole or in
246 part, from illegal gas or illegal oil or from any product
247 thereof, as distinguished from "legal product," which is a
248 product processed or derived to no extent from illegal oil or
249 illegal gas.

250 (24)~~(15)~~ "Reasonable market demand" means the amount of oil
251 reasonably needed for current consumption, together with a
252 reasonable amount of oil for storage and working stocks.

253 (30)~~(16)~~ "Tender" means a permit or certificate of
254 clearance for the transportation or the delivery of oil, gas, or
255 products, approved and issued or registered under the authority
256 of the division.

257 ~~(17) The use of the word "and" includes the word "or" and~~
258 ~~the use of "or" includes "and," unless the context clearly~~
259 ~~requires a different meaning, especially with respect to such~~
260 ~~expressions as "oil and gas" or "oil or gas."~~

261 (32)~~(18)~~ "Well site" means the general area around a well,

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262 which area has been disturbed from its natural or existing
263 condition, as well as the drilling or production pad, mud and
264 water circulation pits, and other operation areas necessary to
265 drill for or produce oil or gas, or to inject gas into and
266 recover gas from a natural gas storage facility.

267 (17)-(19) "Oil and gas administrator" means the State
268 Geologist.

269 (18)-(20) "Operator" means the entity who:

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

271 (b) As part of a natural gas storage facility, injects, or
272 is engaged in the work of preparing to inject, gas into a
273 natural gas storage reservoir; or stores gas in, or removes gas
274 from, a natural gas storage reservoir.

275 (1)-(21) "Completion date" means the day, month, and year
276 that a new productive well, a previously shut-in well, or a
277 temporarily abandoned well is completed, repaired, or
278 recompleted and the operator begins producing oil or gas in
279 commercial quantities.

280 (26)-(22) "Shut-in well" means an oil or gas well that has
281 been taken out of service for economic reasons or mechanical
282 repairs.

283 (29)-(23) "Temporarily abandoned well" means a permitted
284 well or wellbore that has been abandoned by plugging in a manner
285 that allows reentry and redevelopment in accordance with oil or
286 gas rules of the Department of Environmental Protection.

287 (14)-(24) "New field well" means an oil or gas well
288 completed after July 1, 1997, in a new field as designated by
289 the Department of Environmental Protection.

290 (6)-(25) "Horizontal well" means a well completed with the

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291 wellbore in a horizontal or nearly horizontal orientation within
292 10 degrees of horizontal within the producing formation.

293 (2) "Department" means the Department of Environmental
294 Protection.

295 (10) "Lateral storage reservoir boundary" means the
296 projection up to the land surface of the maximum horizontal
297 extent of the gas volume contained in a natural gas storage
298 reservoir.

299 (11) "Native gas" means gas that occurs naturally within
300 this state and does not include gas produced outside the state,
301 transported to this state, and injected into a permitted natural
302 gas storage facility.

303 (12) "Natural gas storage facility" means an underground
304 reservoir used or to be used for the underground storage of
305 natural gas, and any surface or subsurface structure,
306 infrastructure, right, or appurtenance necessary or useful in
307 the operation of the facility for the underground storage of
308 natural gas, including any necessary or reasonable reservoir
309 protective area as designated for the purpose of ensuring the
310 safe operation of the storage of natural gas or protecting the
311 natural gas storage facility from pollution, invasion, escape,
312 or migration of gas, or any subsequent extension thereof.

313 (13) "Natural gas storage reservoir" means a pool or field
314 suitable for or capable of being made suitable for the
315 injection, storage, and recovery of gas.

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

318 (25) "Reservoir protective area" means the area extending
319 up to and including 2,000 feet surrounding a natural gas lateral

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320 storage reservoir boundary.

321 (27) "Shut-in wellhead pressure" means the pressure at the
322 casinghead or wellhead when all valves are closed and no oil or
323 gas has been allowed to escape for at least 24 hours.

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

326 377.21 Jurisdiction of division.—

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

332 Section 9. Subsection (2) of section 377.22, Florida
333 Statutes, is amended, and subsection (3) is added to that
334 section, to read:

335 377.22 Rules and orders.—

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

348 (a) To require the drilling, casing, and plugging of wells

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349 to be done in such a manner as to prevent the pollution of the
350 fresh, salt, or brackish waters or the lands of the state and to
351 protect the integrity of natural gas storage reservoirs.

352 (b) To prevent the alteration of the sheet flow of water in
353 any area.

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

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

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

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

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

377 (h) To require the making of reports showing the location

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

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

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

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

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

401 (m) To prevent fires.

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

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

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407 (p) To regulate secondary recovery methods, including the
408 introduction of gas, air, water, or other substance into
409 producing formations.

410 (q) To regulate gas cycling operations.

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

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

416 (t)~~(s)~~ To require, either generally or in or from
417 particular areas, certificates of clearance or tenders in
418 connection with the transportation or delivery of oil or gas, or
419 any product.

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

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

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

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

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

434 (3) Notwithstanding the grant of rulemaking authority in
435 this section, the authority of the department to regulate the

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436 activities described in this section must be self-executing. A
437 regulatory action taken by the department, including, but not
438 limited to, the receipt and processing of permit applications or
439 the issuance of permits, may not be deemed invalid solely
440 because the department has not yet adopted rules regarding such
441 regulatory action.

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

444 377.24 Notice of intention to drill well; permits;
445 abandoned wells and dry holes.-

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

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

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465 request.

466 Section 11. Section 377.2407, Florida Statutes, is created
467 to read:

468 377.2407 Natural gas storage facility permit application to
469 inject gas into and recover gas from a natural gas storage
470 reservoir.—

471 (1) Before drilling a well to inject gas into and recover
472 gas from a natural gas storage reservoir, the person who desires
473 to conduct such operation shall apply to the department in the
474 manner described in this section or using such form as the
475 department may prescribe and shall pay a reasonable fee for
476 processing to obtain a natural gas storage facility 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 reservoir
483 boundary.

484 (c) A description and location of all injection, recovery,
485 and observation wells, including casing and cementing plans for
486 each well.

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

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

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

493 (g) A field-monitoring plan that requires, at a minimum,

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494 monthly field inspections of all wells that are part of the
495 natural gas storage facility.

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

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

501 (j) A casing inspection plan.

502 (k) A spill prevention and response plan.

503 (l) A well spacing plan.

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

507 (n) A gas migration response plan.

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

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

518 377.241 Criteria for issuance of permits.—The division, in
519 the exercise of its authority to issue permits as hereinafter
520 provided, shall give consideration to and be guided by the
521 following criteria:

522 (4) For activities and operations concerning a natural gas

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523 storage facility, the nature, structure, and proposed use of the
524 natural gas storage reservoir is suitable for the storage and
525 recovery of gas without adverse effect to public health or
526 safety or the environment.

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

529 377.242 Permits for drilling or exploring and extracting
530 through well holes or by other means.—The department is vested
531 with the power and authority:

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

536
537 Each permit shall contain an agreement by the permit holder that
538 the permit holder will not prevent inspection by division
539 personnel at any time. The provisions of this section
540 prohibiting permits for drilling or exploring for oil in coastal
541 waters do not apply to any leases entered into before June 7,
542 1991.

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

545 377.2431 Conditions for granting permits for natural gas
546 storage facilities.—

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

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

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

556 (b) The applicant or operator has acquired a lawful right
557 to drill, explore, or develop a natural gas storage reservoir
558 from a majority of the property interests, which may be acquired
559 through eminent domain or by any legal instrument conveying to
560 the applicant or operator such property interests or the right
561 to develop the natural gas storage reservoir; or the applicant
562 or operator has obtained a certificate of public convenience and
563 necessity for the natural gas storage reservoir from the Federal
564 Energy Regulatory Commission pursuant to the Natural Gas Act, 15
565 U.S.C. ss. 717 et seq.

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

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

580 (3) All inspections and other reports required under this

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581 section must be submitted to the department in the manner
582 prescribed by rule.

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

586 (a) The maximum shut-in wellhead pressure may not exceed
587 the highest shut-in wellhead pressure found to exist during the
588 production history of the reservoir, unless a higher pressure is
589 established by the department based on testing of caprock and
590 pool containment. The methods used for determining the higher
591 pressure must be approved by the department.

592 (b) If the shut-in wellhead pressure of the original
593 discovery or of the highest production is not known, or a higher
594 pressure has not been established through a method approved by
595 the department pursuant to paragraph (a), the maximum storage
596 reservoir pressure must be limited to a freshwater hydrostatic
597 gradient.

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

602 (6) A county or municipality may not adopt an ordinance,
603 resolution, comprehensive plan, or land development regulation,
604 or otherwise attempt to regulate or enforce any matter
605 concerning natural gas storage facilities governed under this
606 part.

607 Section 15. Section 377.2432, Florida Statutes, is created
608 to read:

609 377.2432 Natural gas storage facilities; protection of

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610 water supplies.—

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

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

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

624 (b) The pollution occurred within 6 months after completion
625 of drilling or alteration of any well under or associated with
626 the natural gas storage facility permit.

627 (3) If the affected underground water supply is within the
628 rebuttable presumption area as provided in subsection (2) and
629 the rebuttable presumption applies, the operator shall provide a
630 temporary water supply if the water user is without a readily
631 available alternative source of water. The temporary water
632 supply provided under this subsection must be adequate in
633 quantity and quality for the purposes served by the affected
634 supply.

635 (4) A natural gas storage facility operator rebuts the
636 presumption in subsection (2) by affirmatively proving any of
637 the following:

638 (a) The pollution existed before the drilling or alteration

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639 activity as determined by a predrilling or prealteration survey.

640 (b) The landowner or water purveyor refused to allow the
641 operator access to conduct a predrilling or prealteration
642 survey.

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

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

648 (e) The pollution occurred as the result of a cause other
649 than activities authorized under the natural gas storage
650 facility permit.

651 (5) An operator electing to preserve a defense under
652 subsection (4) must retain an independent certified laboratory
653 to conduct a predrilling or prealteration survey of the water
654 supply. A copy of survey results must be submitted to the
655 department and the landowner or water purveyor in the manner
656 prescribed by the department.

657 (6) An operator must provide written notice to the
658 landowner or water purveyor indicating that the presumption
659 established under subsection (2) may be void if the landowner or
660 water purveyor refused to allow the operator access to conduct a
661 predrilling or prealteration survey. Proof of written notice to
662 the landowner or water purveyor must be provided to the
663 department in order for the operator to retain the protections
664 under subsection (4).

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

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668 Section 16. Section 377.2433, Florida Statutes, is created
669 to read:

670 377.2433 Protection of natural gas storage facilities;
671 remedies.—

672 (1) The department may not authorize the drilling of any
673 well into or through a permitted natural gas storage reservoir
674 or reservoir protective area, except upon conditions deemed by
675 the department to be sufficient to prevent the loss, migration,
676 or escape of gas from the natural gas storage reservoir. The
677 department shall provide written notice to the natural gas
678 storage facility operator of any application filed with the
679 department and any agency action taken related to drilling a
680 well into or through a permitted natural gas storage facility
681 boundary or reservoir protective area.

682 (2) As a condition for the issuance of a permit by the
683 department, an applicant seeking to drill a well into or through
684 a permitted natural gas storage facility boundary or reservoir
685 protective area must provide the affected natural gas storage
686 facility operator a reasonable right of entry to observe and
687 monitor all drilling activities.

688 (3) The department shall ensure that any well drilled into
689 or through a permitted natural gas storage reservoir or
690 reservoir protective area is cased and cemented in a manner
691 sufficient to protect the integrity of the natural gas storage
692 reservoir.

693 (4) A natural gas storage facility operator may petition
694 the department for a determination that any other activity is
695 causing gas migration, escape, or loss, or in any other respect
696 adversely affecting the integrity and use of the natural gas

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697 storage reservoir. Upon the filing of such petition, the
698 department shall conduct a preliminary investigation and make a
699 preliminary determination of whether probable cause exists to
700 believe that the allegations of the petition may be true and
701 correct. If the department determines that probable cause
702 exists, the department shall:

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

706 (b) Refer the petition to the Division of Administrative
707 Hearings to conduct formal administrative proceedings pursuant
708 to ss. 120.57 and 120.569 to make findings of fact regarding the
709 allegations of the petition. Based upon such findings of fact,
710 the department shall enter a final order granting or denying the
711 petition. Any final order granting such petition must include
712 remedial measures to be undertaken by the activity alleged to be
713 causing gas migration up to and including complete cessation of
714 such activity. Final orders issued pursuant to this paragraph
715 are appealable pursuant to s. 120.68.

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

719 Section 17. Section 377.2434, Florida Statutes, is created
720 to read:

721 377.2434 Property rights to injected natural gas.—

722 (1) All natural gas that has previously been reduced to
723 possession and that is subsequently injected into a natural gas
724 storage facility, whether the storage rights were acquired by
725 eminent domain or otherwise, are at all times the property of

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726 the injector or the injector's heirs, successors, or assigns,
727 whether owned by the injector or stored under contract.

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

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

744 (a) The injector or the injector's heirs, successors, or
745 assigns:

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

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

754 (b) The owner of the stratum and the owner of the surface

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755 are entitled to compensation, including compensation for use of
756 or damage to the surface or substratum, as provided by law.

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

759 377.25 Production pools; drilling units.—

760 (3) Each well permitted to be drilled upon any drilling
761 unit shall be drilled approximately in the center thereof, with
762 such exception as may be reasonably necessary where the division
763 finds that the unit is partly outside the pool or, for some
764 other reason, a well approximately in the center of the unit
765 would be nonproductive or where topographical conditions are
766 such as to make the drilling approximately in the center of the
767 unit unduly burdensome or where the operator proposes to
768 complete the well with a horizontal or nearly horizontal well in
769 the producing zone. Whenever an exception is granted, the
770 division shall take such action as will offset any advantage
771 which the person securing the exception may have over other
772 producers by reason of the drilling of the well as an exception,
773 and so that drainage from developed units to the tract, with
774 respect to which the exception is granted, will be prevented or
775 minimized, and the producer of the well drilled, as an
776 exception, will be allowed to produce no more than his or her
777 just and equitable share of the oil and gas in the pool, as such
778 share is set forth in this section. This subsection does not
779 apply to injection wells associated with a natural gas storage
780 facility.

781 Section 19. Subsections (1), (2), and (4) of section
782 377.28, Florida Statutes, are amended to read:

783 377.28 Cycling, pooling, and unitization of oil and gas.—

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784 (1) The department may consider the need for the operation
785 as a unit of an entire field, or of any pool or pools, portion
786 or portions, or combinations thereof within a field, for the
787 storage of natural gas, or for the production of oil or gas, or
788 both, and other minerals which may be associated and produced
789 therewith, in order to avoid the drilling of unnecessary wells,
790 otherwise to prevent waste, or to increase the ultimate storage
791 of gas and recovery of the unitized minerals by additional
792 recovery methods.

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

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

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

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

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

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813 approved by the department.

814 (4) An order requiring unit operation does ~~shall~~ not become
815 effective unless and until the department makes a finding, in
816 the order or a supplemental order, of the following:

817 (a) A contract incorporating the unitization agreement has
818 been signed or ratified or approved in writing by the owners of
819 at least 75 percent in interest as costs are shared under the
820 terms of the order and by 75 percent in interest as production
821 is to be allocated to the royalty owners in the unit area. If
822 any entity owns both royalty interests and interests responsible
823 for costs, such party may vote as an owner responsible for costs
824 or as a royalty owner, at his or her election, but not as both,
825 and the entity's interest that is not voted shall be excluded in
826 calculating the percentages of consent and nonconsent.

827 (b) A contract incorporating the required arrangements for
828 operations has been signed or ratified or approved in writing by
829 the owners of at least 75 percent in interest as costs are
830 shared. However, if the contract is incorporating the
831 unitization agreement or arrangements for operations of a
832 unitization agreement, only 50 percent of the owners of the pore
833 space comprising the natural gas storage reservoir must sign or
834 ratify the contract or approve it in writing.

835
836 ~~, and the department has made a finding to that effect either in~~
837 ~~the order or in a supplemental order.~~ Both contracts may be
838 encompassed in a single document. If ~~In the event~~ the required
839 percentage interests have not signed, ratified, or approved the
840 ~~said~~ agreements within 6 months after the date of such order, or
841 within such extended period as the department may prescribe, it

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842 shall be automatically revoked.

843 Section 20. Section 377.29, Florida Statutes, is amended to
844 read:

845 377.29 Agreements in interest of conservation.—Agreements
846 made in the interest of conservation of oil or gas, or both, or
847 for the prevention of waste, between and among owners and
848 operators, or both, or between and among owners and operators of
849 a natural gas storage facility, or both, owning separate
850 holdings in the same oil or gas pool, or in any area that
851 appears from geological or other data to be underlaid, by a
852 common accumulation of oil or gas, or both, or between and among
853 such owners or operators, or both, and royalty owners therein,
854 of the pool or area, or any part thereof, as a unit for
855 establishing and carrying out a plan for the cooperative
856 development and operation thereof, when such agreements are
857 approved by the division, are hereby authorized and may ~~shall~~
858 not be held or construed to violate any of the statutes of this
859 state relating to trusts, monopolies, or contracts and
860 combinations in restraint of trade.

861 Section 21. Subsection (4) is added to section 377.30,
862 Florida Statutes, to read:

863 377.30 Limitation on amount of oil or gas taken.—

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

866 Section 22. Subsection (1) of section 377.34, Florida
867 Statutes, is amended to read:

868 377.34 Actions and injunctions by division.—

869 (1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is
870 violating, or threatening to violate, any statute of this state

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871 with respect to the conservation of oil or gas, or both, or any
872 provision of this law, or any rule, regulation or order made
873 ~~thereunder~~ by any act done in the operation of a any well
874 producing oil or gas, or storing or recovering natural gas, or
875 by omitting an any act required to be done ~~thereunder~~, the
876 division, through its counsel, or the Department of Legal
877 Affairs on its own initiative, may bring suit against such
878 person in the Circuit Court in the County of Leon, state, or in
879 the circuit court in the county in which the well in question is
880 located, at the option of the division, or the Department of
881 Legal Affairs, to restrain such person or persons from
882 continuing such violation or from carrying out the threat of
883 violation. In such suit, the division, or the Department of
884 Legal Affairs, may obtain injunctions, prohibitory and
885 mandatory, including temporary restraining orders and temporary
886 injunctions, as the facts may warrant, including, when
887 appropriate, an injunction restraining any person from moving or
888 disposing of illegal oil, illegal gas or illegal product, and
889 any or all such commodities may be ordered to be impounded or
890 placed under the control of a receiver appointed by the court
891 if, in the judgment of the court, such action is advisable.

892 Section 23. Paragraph (a) of subsection (1) of section
893 377.37, Florida Statutes, is amended to read:

894 377.37 Penalties.—

895 (1) (a) Any person who violates any provision of this law or
896 any rule, regulation, or order of the division made under this
897 chapter or who violates the terms of any permit to drill for or
898 produce oil, gas, or other petroleum products referred to in s.
899 377.242(1), ~~or~~ to store gas in a natural gas storage facility,

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900 or any lessee, permitholder, or operator of equipment or
901 facilities used in the exploration for, drilling for, or
902 production of oil, gas, or other petroleum products, or storage
903 of gas in a natural gas storage facility, who refuses inspection
904 by the division as provided in this chapter, is liable to the
905 state for any damage caused to the air, waters, or property,
906 including animal, plant, or aquatic life, of the state and for
907 reasonable costs and expenses of the state in tracing the source
908 of the discharge, in controlling and abating the source and the
909 pollutants, and in restoring the air, waters, and property,
910 including animal, plant, and aquatic life, of the state.
911 Furthermore, such person, lessee, permitholder, or operator is
912 subject to the judicial imposition of a civil penalty in an
913 amount of not more than \$10,000 for each offense. However, the
914 court may receive evidence in mitigation. Each day during any
915 portion of which such violation occurs constitutes a separate
916 offense. Nothing herein shall give the department the right to
917 bring an action on behalf of any private person.

918 Section 24. Subsections (1) and (3) of section 377.371,
919 Florida Statutes, are amended to read:

920 377.371 Pollution prohibited; reporting, liability.-

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

927 (3) Because it is the intent of this chapter to provide the
928 means for rapid and effective cleanup and to minimize damages

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929 resulting from pollution in violation of this chapter, if the
930 waters of the state are polluted by the drilling, storage of
931 natural gas, or production operations of any person or persons
932 and such pollution damages or threatens to damage human, animal,
933 or plant life, public or private property, or any mineral or
934 water-bearing formation, said person shall be liable to the
935 state for all costs of cleanup or other damage incurred by the
936 state. In any suit to enforce claims of the state under this
937 chapter, it is ~~shall~~ not be necessary for the state to plead or
938 prove negligence in any form or manner on the part of the person
939 or persons conducting the drilling or production operations; the
940 state need only plead and prove the fact of the prohibited
941 discharge or other polluting condition and that it occurred at
942 the facilities of the person or persons conducting the drilling
943 or production operation. A ~~No~~ person or persons conducting the
944 drilling, storage, or production operation may not ~~shall~~ be held
945 liable if said person or persons prove that the prohibited
946 discharge or other polluting condition was the result of any of
947 the following:

948 (a) An act of war.

949 (b) An act of government, either state, federal, or
950 municipal.

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

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

956 Section 25. Paragraph (g) is added to subsection (3) of
957 section 403.973, Florida Statutes, and paragraph (b) of

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958 subsection (14) of that section is amended, to read:

959 403.973 Expedited permitting; amendments to comprehensive
960 plans.—

961 (3)

962 (g) Projects for natural gas storage facilities that are
963 permitted under chapter 377 are eligible for the expedited
964 permitting process.

965 (14)

966 (b) Projects identified in paragraph (3) (f) or paragraph
967 (3) (g) or challenges to state agency action in the expedited
968 permitting process for establishment of a state-of-the-art
969 biomedical research institution and campus in this state by the
970 grantee under s. 288.955 are subject to the same requirements as
971 challenges brought under paragraph (a), except that,
972 notwithstanding s. 120.574, summary proceedings must be
973 conducted within 30 days after a party files the motion for
974 summary hearing, regardless of whether the parties agree to the
975 summary proceeding.

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