

**By** the Committees on Communications, Energy, and Public Utilities; and Environmental Preservation and Conservation; and Senators Richter and Smith

579-04330-13

2013958c2

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; amending s. 377.24, F.S.; providing for the  
18          notice and permitting of storage in and recovery from  
19          natural gas storage reservoirs; creating s. 377.2407,  
20          F.S.; establishing a natural gas storage facility  
21          permit application process; specifying requirements  
22          for an application, including fees; amending s.  
23          377.241, F.S.; providing criteria that the division  
24          must 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  
29          facility permits; prohibiting a permit for certain

579-04330-13

2013958c2

30 natural gas storage facilities; creating s. 377.2432,  
31 F.S.; providing for the protection of water supplies  
32 at natural gas storage facilities; providing that a  
33 natural gas storage facility operator is presumed  
34 responsible for pollution of an underground water  
35 supply under certain circumstances; creating s.  
36 377.2433, F.S.; providing for the protection of  
37 natural gas storage facilities through a requirement  
38 of notice, compliance with certain standards, and a  
39 right of entry to monitor activities; creating s.  
40 377.2434, F.S.; providing that property rights to  
41 injected natural gas are with the injector or the  
42 injector's heirs, successors, or assigns; providing  
43 for compensation to the owner of the stratum and the  
44 owner of the surface for use of or damage to the  
45 surface or substratum; amending s. 377.25, F.S.;  
46 limiting the scope of certain drilling unit  
47 requirements; amending s. 377.28, F.S.; modifying  
48 situations in which the department is required to  
49 issue an order requiring unit operation; amending s.  
50 377.30, F.S.; providing that limitations on the amount  
51 of oil or gas taken do not apply to nonnative gas  
52 recovered from a permitted natural gas storage  
53 facility; amending s. 377.34, F.S.; providing for  
54 legal action against a person who appears to be  
55 violating a rule that relates to the storage or  
56 recovery of natural gas; amending s. 377.37, F.S.;  
57 expanding penalties to reach persons who violate the  
58 terms of a permit relating to storage of gas in a

579-04330-13

2013958c2

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

73

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

75

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

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

80 211.02 Oil production tax; basis and rate of tax; tertiary  
81 oil and mature field recovery oil.—An excise tax is hereby  
82 levied upon every person who severs oil in the state for sale,  
83 transport, storage, profit, or commercial use. Except as  
84 otherwise provided in this part, the tax is levied on the basis  
85 of the entire production of oil in this state, including any  
86 royalty interest. Such tax shall accrue at the time the oil is  
87 severed and shall be a lien on production regardless of the

579-04330-13

2013958c2

88 place of sale, to whom sold, or by whom used, and regardless of  
89 the fact that delivery of the oil may be made outside the state.

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

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

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

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

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

111 376.301 Definitions of terms used in ss. 376.30-376.317,  
112 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and  
113 376.75, unless the context clearly requires otherwise, the term:

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

579-04330-13

2013958c2

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

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

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

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

579-04330-13

2013958c2

146 the provisions of this law.

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

149 377.19 Definitions.—As used ~~Unless the context otherwise~~  
150 ~~requires, the words defined in this section shall have the~~  
151 ~~following meanings when found in ss. 377.06, 377.07, and 377.10-~~  
152 ~~377.40, the term:~~

153 (3)~~(1)~~ "Division" means the Division of Resource Management  
154 of the Department of Environmental Protection.

155 (28)~~(2)~~ "State" means the State of Florida.

156 (20)~~(3)~~ "Person" means a ~~any~~ natural person, corporation,  
157 association, partnership, receiver, trustee, guardian, executor,  
158 administrator, fiduciary, or representative of any kind.

159 (15)~~(4)~~ "Oil" means crude petroleum oil and other  
160 hydrocarbons, regardless of gravity, which are produced at the  
161 well in liquid form by ordinary production methods, and which  
162 are not the result of condensation of gas after it leaves the  
163 reservoir.

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

166 (21)~~(6)~~ "Pool" means an underground reservoir containing or  
167 appearing to contain a common accumulation of oil or gas or  
168 both. Each zone of a general structure which is completely  
169 separated from any other zone on the structure is considered a  
170 separate pool as used herein.

171 (4)~~(7)~~ "Field" means the general area that ~~which~~ is  
172 underlaid, or appears to be underlaid, by at least one pool. The  
173 term; ~~and "field"~~ includes the underground reservoir, or  
174 reservoirs, containing oil or gas, or both. The terms ~~words~~

579-04330-13

2013958c2

175 "field" and "pool" mean the same thing if ~~when~~ only one  
176 underground reservoir is involved; however, the term "field,"  
177 unlike the term "pool," may relate to two or more pools.

178 (19)~~(8)~~ "Owner" means the person who has the right to drill  
179 into and to produce from any pool and to appropriate the  
180 production ~~either~~ for the person or for the person and another,  
181 or others.

182 (22)~~(9)~~ "Producer" means the owner or operator of a well or  
183 wells capable of producing oil or gas, or both.

184 (31)~~(10)~~ "Waste," in addition to its ordinary meaning,  
185 means "physical waste" as that term is generally understood in  
186 the oil and gas industry. The term "waste" includes:

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

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

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

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

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

579-04330-13

2013958c2

204           (f) The underground waste, however caused and whether or  
205 not defined.

206           (g) The creation of unnecessary fire hazards.

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

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

211           (j) Permitting gas produced from a gas well to escape into  
212 the air.

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

217           (23)~~(11)~~ "Product" means a ~~any~~ commodity made from oil or  
218 gas and includes refined crude oil, crude tops, topped crude,  
219 processed crude petroleum, residue from crude petroleum,  
220 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,  
221 residuum, gas oil, casinghead gasoline, natural gas gasoline,  
222 naphtha, distillate, condensate, gasoline, waste oil, kerosene,  
223 benzine, wash oil, blended gasoline, lubricating oil, blends or  
224 mixtures of oil with one or more liquid products or byproducts  
225 derived from oil or gas, and blends or mixtures of two or more  
226 liquid products or byproducts derived from oil or gas, whether  
227 hereinabove enumerated or not.

228           (8)~~(12)~~ "Illegal oil" means oil that ~~which~~ has been  
229 produced within the state from any well or wells in excess of  
230 the amount allowed by rule, regulation, or order of the  
231 division, as distinguished from oil produced within the state  
232 from a well not producing in excess of the amount so allowed,



579-04330-13

2013958c2

233 which is "legal oil."

234 (7)~~(13)~~ "Illegal gas" means gas that ~~which~~ has been  
235 produced within the state from any well or wells in excess of  
236 the amount allowed by any rule, regulation, or order of the  
237 division, as distinguished from gas produced within the State of  
238 Florida from a well not producing in excess of the amount so  
239 allowed, which is "legal gas."

240 (9)~~(14)~~ "Illegal product" means a ~~any~~ product of oil or  
241 gas, any part of which was processed or derived, in whole or in  
242 part, from illegal gas or illegal oil or from any product  
243 thereof, as distinguished from "legal product," which is a  
244 product processed or derived to no extent from illegal oil or  
245 illegal gas.

246 (24)~~(15)~~ "Reasonable market demand" means the amount of oil  
247 reasonably needed for current consumption, together with a  
248 reasonable amount of oil for storage and working stocks.

249 (30)~~(16)~~ "Tender" means a permit or certificate of  
250 clearance for the transportation or the delivery of oil, gas, or  
251 products, approved and issued or registered under the authority  
252 of the division.

253 ~~(17) The use of the word "and" includes the word "or" and~~  
254 ~~the use of "or" includes "and," unless the context clearly~~  
255 ~~requires a different meaning, especially with respect to such~~  
256 ~~expressions as "oil and gas" or "oil or gas."~~

257 (32)~~(18)~~ "Well site" means the general area around a well,  
258 which area has been disturbed from its natural or existing  
259 condition, as well as the drilling or production pad, mud and  
260 water circulation pits, and other operation areas necessary to  
261 drill for or produce oil or gas, or to inject gas into and

579-04330-13

2013958c2

262 recover gas from a natural gas storage facility.

263 ~~(17)-(19)~~ "Oil and gas administrator" means the State  
264 Geologist.

265 ~~(18)-(20)~~ "Operator" means the entity who:

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

267 (b) As part of a natural gas storage facility, injects, or  
268 is engaged in the work of preparing to inject, gas into a  
269 natural gas storage reservoir; or stores gas in, or removes gas  
270 from, a natural gas storage reservoir.

271 ~~(1)-(21)~~ "Completion date" means the day, month, and year  
272 that a new productive well, a previously shut-in well, or a  
273 temporarily abandoned well is completed, repaired, or  
274 recompleted and the operator begins producing oil or gas in  
275 commercial quantities.

276 ~~(26)-(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 ~~(29)-(23)~~ "Temporarily abandoned well" means a permitted  
280 well or wellbore that has been abandoned by plugging in a manner  
281 that allows reentry and redevelopment in accordance with oil or  
282 gas rules of the Department of Environmental Protection.

283 ~~(14)-(24)~~ "New field well" means an oil or gas well  
284 completed after July 1, 1997, in a new field as designated by  
285 the Department of Environmental Protection.

286 ~~(6)-(25)~~ "Horizontal well" means a well completed with the  
287 wellbore in a horizontal or nearly horizontal orientation within  
288 10 degrees of horizontal within the producing formation.

289 (2) "Department" means the Department of Environmental  
290 Protection.

579-04330-13

2013958c2

291       (10) "Lateral storage reservoir boundary" means the  
292 projection up to the land surface of the maximum horizontal  
293 extent of the gas volume contained in a natural gas storage  
294 reservoir.

295       (11) "Native gas" means gas that occurs naturally within  
296 this state and does not include gas produced outside the state,  
297 transported to this state, and injected into a permitted natural  
298 gas storage facility.

299       (12) "Natural gas storage facility" means an underground  
300 reservoir from which oil or gas has previously been produced and  
301 which is used or intended to be used for the underground storage  
302 of natural gas, and any surface or subsurface structure, or  
303 infrastructure, except wells. The term also includes a right or  
304 appurtenance necessary or useful in the operation of the  
305 facility for the underground storage of natural gas, including  
306 any necessary or reasonable reservoir protective area as  
307 designated for the purpose of ensuring the safe operation of the  
308 storage of natural gas or protecting the natural gas storage  
309 facility from pollution, invasion, escape, or migration of gas,  
310 or any subsequent extension thereof. The term does not mean a  
311 transmission, distribution, or gathering pipeline or system that  
312 is not used primarily as integral piping for a natural gas  
313 storage facility.

314       (13) "Natural gas storage reservoir" means a pool or field  
315 from which oil or gas has previously been produced and which is  
316 suitable for or capable of being made suitable for the  
317 injection, storage, and recovery of gas, as identified in a  
318 permit application submitted to the department under s.  
319 377.2407.

579-04330-13

2013958c2

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

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

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

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

330 377.21 Jurisdiction of division.—

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

579-04330-13

2013958c2

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 in  
356 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.

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 security  
370 acceptable to the department, conditioned upon the performance  
371 of the duty to plug properly each dry and abandoned well and the  
372 full and complete restoration by the applicant of the area over  
373 which geophysical exploration, drilling, or production is  
374 conducted to the similar contour and general condition in  
375 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

579-04330-13

2013958c2

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

579-04330-13

2013958c2

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  
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 a  
433 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

579-04330-13

2013958c2

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 the same shall notify the division upon such form as it may  
446 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  
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 to  
464 inject gas into and recover gas from a natural gas storage



579-04330-13

2013958c2

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 of Environmental Protection  
472 shall also require any applicant seeking to obtain such permit  
473 to pay a reasonable permit application fee. Such fee must be in  
474 an amount necessary to cover the costs associated with  
475 permitting, processing, issuing, and recertifying the permit  
476 application, and inspecting for 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 reservoir  
483 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 gas  
488 storage reservoir is suitable for the storage and recovery of  
489 gas.

490 (f) Information identifying all known abandoned or active  
491 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

579-04330-13

2013958c2

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, the  
497 inspection of all wells that are part of the natural gas storage  
498 facility and plugged wells within the natural gas storage  
499 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.

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

579-04330-13

2013958c2

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:

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 permit holder that  
539 the permit holder 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.

579-04330-13

2013958c2

552       (2) Before issuing or recertifying a permit, the department  
553 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  
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 identify  
567 known wells that have been drilled into or through the natural  
568 gas storage reservoir or reservoir protective area to determine  
569 the status of the wells and whether inactive or abandoned wells  
570 have been properly plugged. For any well that has not been  
571 properly plugged, before conducting injection operations and  
572 after issuance of the permit, the applicant must plug or  
573 recondition the well to ensure the integrity of the storage  
574 reservoir or 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.

579-04330-13

2013958c2

581       (e) A determination has been made regarding whether native  
582 gas or oil will be severed from below the soil or water of this  
583 state in the recovery of injected gas. If native gas or oil will  
584 be severed, the applicant or operator must acquire a lawful  
585 right to develop the native gas or oil before injecting gas into  
586 the 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  
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 or recovery of natural  
609 gas will not cause or allow natural gas to migrate into the

579-04330-13

2013958c2

610 underground source of drinking water; or 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 Section 15. Section 377.2432, Florida Statutes, is created  
615 to read:

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

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

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

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

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

636 (3) If the affected underground water supply is within the  
637 rebuttable presumption area as provided in subsection (2) and  
638 the rebuttable presumption applies, the natural gas storage

579-04330-13

2013958c2

639 facility operator shall provide a temporary water supply if the  
640 water user is without a readily available alternative source of  
641 water at no cost to the owner of the affected water supply. The  
642 temporary water supply provided under this subsection must be  
643 adequate in quantity and quality for the purposes served by the  
644 affected supply.

645 (4) A natural gas storage facility operator rebuts the  
646 presumption in subsection (2) by affirmatively proving any of  
647 the following:

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

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

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

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

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

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

667 (6) A natural gas storage facility operator must provide

579-04330-13

2013958c2

668 written notice to the landowner or water purveyor indicating  
669 that the presumption established under subsection (2) may be  
670 void if the landowner or water purveyor refused to allow the  
671 operator access to conduct a predrilling or prealteration  
672 survey. Proof of written notice to the landowner or water  
673 purveyor must be provided to the department in order for the  
674 operator to retain the protections under subsection (4).

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

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

680 377.2433 Protection of natural gas storage facilities.—

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

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



579-04330-13

2013958c2

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

702       Section 17. Section 377.2434, Florida Statutes, is created  
703 to read:

704       377.2434 Property rights to injected natural gas.—

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

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

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

579-04330-13

2013958c2

726       (a) The injector or the injector's heirs, successors, or  
727 assigns:

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

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

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

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

741       377.25 Production pools; drilling units.—

742       (3) Each well permitted to be drilled upon any drilling  
743 unit shall be drilled approximately in the center thereof, with  
744 such exception as may be reasonably necessary where the division  
745 finds that the unit is partly outside the pool or, for some  
746 other reason, a well approximately in the center of the unit  
747 would be nonproductive or where topographical conditions are  
748 such as to make the drilling approximately in the center of the  
749 unit unduly burdensome or where the operator proposes to  
750 complete the well with a horizontal or nearly horizontal well in  
751 the producing zone. Whenever an exception is granted, the  
752 division shall take such action as will offset any advantage  
753 which the person securing the exception may have over other  
754 producers by reason of the drilling of the well as an exception,

579-04330-13

2013958c2

755 and so that drainage from developed units to the tract, with  
756 respect to which the exception is granted, will be prevented or  
757 minimized, and the producer of the well drilled, as an  
758 exception, will be allowed to produce no more than his or her  
759 just and equitable share of the oil and gas in the pool, as such  
760 share is set forth in this section. This subsection does not  
761 apply to wells associated with a natural gas storage facility.

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

764 377.28 Cycling, pooling, and unitization of oil and gas.—

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

767 (a) Unit operation of the field, or of any pool or pools,  
768 portion or portions, or combinations thereof within the field,  
769 is reasonably necessary to prevent waste, to avoid the drilling  
770 of unnecessary wells, or to increase the ultimate recovery of  
771 oil or gas by additional recovery methods; ~~and~~

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

775 (c) The additional recovery of oil or gas does not  
776 adversely interfere with the storage or recovery of natural gas  
777 within a natural gas storage reservoir.

778  
779 The phrase "additional recovery methods" as used herein  
780 includes, but is not limited to, the maintenance or partial  
781 maintenance of reservoir pressures; recycling; flooding a pool  
782 or pools, or parts thereof, with air, gas, water, liquid  
783 hydrocarbons, any other substance, or any combination thereof;

579-04330-13

2013958c2

784 or any other method of producing additional hydrocarbons  
785 approved by the department.

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

788 377.30 Limitation on amount of oil or gas taken.—

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

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

793 377.34 Actions and injunctions by division.—

794 (1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is  
795 violating, or threatening to violate, any statute of this state  
796 with respect to the conservation of oil or gas, or both, or any  
797 provision of this law, or any rule, regulation or order made  
798 ~~thereunder~~ by any act done in the operation of a ~~any~~ well  
799 producing oil or gas, or storing or recovering natural gas, or  
800 by omitting an ~~any~~ act required to be done ~~thereunder~~, the  
801 division, through its counsel, or the Department of Legal  
802 Affairs on its own initiative, may bring suit against such  
803 person in the Circuit Court in the County of Leon, state, or in  
804 the circuit court in the county in which the well in question is  
805 located, at the option of the division, or the Department of  
806 Legal Affairs, to restrain such person or persons from  
807 continuing such violation or from carrying out the threat of  
808 violation. In such suit, the division, or the Department of  
809 Legal Affairs, may obtain injunctions, prohibitory and  
810 mandatory, including temporary restraining orders and temporary  
811 injunctions, as the facts may warrant, including, when  
812 appropriate, an injunction restraining any person from moving or

579-04330-13

2013958c2

813 disposing of illegal oil, illegal gas or illegal product, and  
814 any or all such commodities may be ordered to be impounded or  
815 placed under the control of a receiver appointed by the court  
816 if, in the judgment of the court, such action is advisable.

817 Section 22. Paragraph (a) of subsection (1) of section  
818 377.37, Florida Statutes, is amended to read:

819 377.37 Penalties.—

820 (1) (a) Any person who violates any provision of this law or  
821 any rule, regulation, or order of the division made under this  
822 chapter or who violates the terms of any permit to drill for or  
823 produce oil, gas, or other petroleum products referred to in s.  
824 377.242(1)~~), or to store gas in a natural gas storage facility,~~  
825 or any lessee, permitholder, or operator of equipment or  
826 facilities used in the exploration for, drilling for, or  
827 production of oil, gas, or other petroleum products, or storage  
828 of gas in a natural gas storage facility, who refuses inspection  
829 by the division as provided in this chapter, is liable to the  
830 state for any damage caused to the air, waters, or property,  
831 including animal, plant, or aquatic life, of the state and for  
832 reasonable costs and expenses of the state in tracing the source  
833 of the discharge, in controlling and abating the source and the  
834 pollutants, and in restoring the air, waters, and property,  
835 including animal, plant, and aquatic life, of the state.  
836 Furthermore, such person, lessee, permitholder, or operator is  
837 subject to the judicial imposition of a civil penalty in an  
838 amount of not more than \$10,000 for each offense. However, the  
839 court may receive evidence in mitigation. Each day during any  
840 portion of which such violation occurs constitutes a separate  
841 offense. Nothing herein shall give the department the right to

579-04330-13

2013958c2

842 bring an action on behalf of any private person.

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

845 377.371 Pollution prohibited; reporting, liability.—

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

852 (3) Because it is the intent of this chapter to provide the  
853 means for rapid and effective cleanup and to minimize damages  
854 resulting from pollution in violation of this chapter, if the  
855 waters of the state are polluted by the drilling, storage of  
856 natural gas, or production operations of any person or persons  
857 and such pollution damages or threatens to damage human, animal,  
858 or plant life, public or private property, or any mineral or  
859 water-bearing formation, said person shall be liable to the  
860 state for all costs of cleanup or other damage incurred by the  
861 state. In any suit to enforce claims of the state under this  
862 chapter, it is ~~shall~~ not ~~be~~ necessary for the state to plead or  
863 prove negligence in any form or manner on the part of the person  
864 or persons conducting the drilling or production operations; the  
865 state need only plead and prove the fact of the prohibited  
866 discharge or other polluting condition and that it occurred at  
867 the facilities of the person or persons conducting the drilling  
868 or production operation. A ~~No~~ person or persons conducting the  
869 drilling, storage, or production operation may not ~~shall~~ be held  
870 liable if said person or persons prove that the prohibited

579-04330-13

2013958c2

871 discharge or other polluting condition was the result of any of  
872 the following:

873 (a) An act of war.

874 (b) An act of government, either state, federal, or  
875 municipal.

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

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

881 Section 24. Paragraph (b) of subsection (14) and paragraph  
882 (b) of subsection (19) of section 403.973, Florida Statutes, are  
883 amended, and paragraphs (g) and (h) are added to subsection (3)  
884 of that section, to read:

885 403.973 Expedited permitting; amendments to comprehensive  
886 plans.—

887 (3)

888 (g) Projects for natural gas storage facilities that are  
889 permitted under chapter 377 are eligible for the expedited  
890 permitting process.

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

894 (14)

895 (b) Projects identified in paragraph (3) (f), (3) (g), or  
896 (3) (h) or challenges to state agency action in the expedited  
897 permitting process for establishment of a state-of-the-art  
898 biomedical research institution and campus in this state by the  
899 grantee under s. 288.955 are subject to the same requirements as

579-04330-13

2013958c2

900 challenges brought under paragraph (a), except that,  
901 notwithstanding s. 120.574, summary proceedings must be  
902 conducted within 30 days after a party files the motion for  
903 summary hearing, regardless of whether the parties agree to the  
904 summary proceeding.

905 (19) The following projects are ineligible for review under  
906 this part:

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

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

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

914 3. Extract natural resources.

915 4. Produce oil.

916 5. Construct, maintain, or operate an oil, petroleum,  
917 ~~natural gas,~~ or sewage pipeline.

918 Section 25. The Department of Environmental Protection  
919 shall adopt rules relating to natural gas storage before issuing  
920 a natural gas storage facility permit.

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