

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

576-04968-13

2013958c3

1                                   A bill to be entitled  
2           An act relating to underground natural gas storage;  
3           providing a short title; amending s. 211.02, F.S.;  
4           narrowing the use of the term "oil"; amending s.  
5           211.025, F.S.; narrowing the scope of the gas  
6           production tax to apply only to native gas; amending  
7           s. 376.301, F.S.; conforming a cross-reference;  
8           amending s. 377.06, F.S.; declaring underground  
9           natural gas storage to be in the public interest;  
10          amending s. 377.18, F.S.; clarifying common sources of  
11          oil and gas; amending s. 377.19, F.S.; modifying and  
12          providing definitions; amending s. 377.21, F.S.;  
13          extending the jurisdiction of the Division of Resource  
14          Management of the Department of Environmental  
15          Protection; amending s. 377.22, F.S.; expanding the  
16          scope of the department's rules and orders; amending  
17          s. 377.24, F.S.; providing for the notice and  
18          permitting of storage in and recovery from natural gas  
19          storage reservoirs; creating s. 377.2407, F.S.;  
20          establishing a natural gas storage facility permit  
21          application process; specifying requirements for an  
22          application, including fees; amending s. 377.241,  
23          F.S.; providing criteria that the division must  
24          consider in issuing permits; amending s. 377.242,  
25          F.S.; granting authority to the department to issue  
26          permits to establish natural gas storage facilities;  
27          creating s. 377.2431, F.S.; establishing conditions  
28          and procedures for granting natural gas storage  
29          facility permits; prohibiting the issuance of permits

576-04968-13

2013958c3

30 for facilities located in specified areas; creating s.  
31 377.2432, F.S.; providing for the protection of water  
32 supplies at natural gas storage facilities; providing  
33 that an operator is presumed responsible for pollution  
34 of an underground water supply under certain  
35 circumstances; creating s. 377.2433, F.S.; providing  
36 for the protection of natural gas storage facilities  
37 through requirement of notice, compliance with certain  
38 standards, and a right of entry to monitor activities;  
39 creating s. 377.2434, F.S.; providing that property  
40 rights to injected natural gas are with the injector  
41 or the injector's heirs, successors, or assigns;  
42 providing for compensation to the owner of the stratum  
43 and the owner of the surface for use of or damage to  
44 the surface or substratum; amending s. 377.25, F.S.;  
45 limiting the scope of certain drilling unit  
46 requirements; amending s. 377.28, F.S.; modifying  
47 situations in which the department is required to  
48 issue an order requiring unit operation; amending s.  
49 377.30, F.S.; providing that limitations on the amount  
50 of oil or gas taken do not apply to nonnative gas  
51 recovered from a permitted natural gas storage  
52 facility; amending s. 377.34, F.S.; providing for  
53 legal action against a person who appears to be  
54 violating a rule that relates to the storage or  
55 recovery of natural gas; amending s. 377.37, F.S.;  
56 expanding penalties to reach persons who violate the  
57 terms of a permit relating to storage of gas in a  
58 natural gas storage facility; amending s. 377.371,

576-04968-13

2013958c3

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

72  
73 Be It Enacted by the Legislature of the State of Florida:

74  
75 Section 1. This act may be cited as the "Florida  
76 Underground Natural Gas Storage Act."

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

79 211.02 Oil production tax; basis and rate of tax; tertiary  
80 oil and mature field recovery oil.—An excise tax is hereby  
81 levied upon every person who severs oil in the state for sale,  
82 transport, storage, profit, or commercial use. Except as  
83 otherwise provided in this part, the tax is levied on the basis  
84 of the entire production of oil in this state, including any  
85 royalty interest. Such tax shall accrue at the time the oil is  
86 severed and shall be a lien on production regardless of the  
87 place of sale, to whom sold, or by whom used, and regardless of

576-04968-13

2013958c3

88 the fact that delivery of the oil may be made outside the state.

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

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

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

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

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

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

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

116 Section 5. Section 377.06, Florida Statutes, is amended to

576-04968-13

2013958c3

117 read:

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

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

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

576-04968-13

2013958c3

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

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

152 (3)~~(1)~~ "Division" means the Division of Resource Management  
153 of the Department of Environmental Protection.

154 (28)~~(2)~~ "State" means the State of Florida.

155 (20)~~(3)~~ "Person" means a ~~any~~ natural person, corporation,  
156 association, partnership, receiver, trustee, guardian, executor,  
157 administrator, fiduciary, or representative of any kind.

158 (15)~~(4)~~ "Oil" means crude petroleum oil and other  
159 hydrocarbons, regardless of gravity, which are produced at the  
160 well in liquid form by ordinary production methods, and which  
161 are not the result of condensation of gas after it leaves the  
162 reservoir.

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

165 (21)~~(6)~~ "Pool" means an underground reservoir containing or  
166 appearing to contain a common accumulation of oil or gas or  
167 both. Each zone of a general structure which is completely  
168 separated from any other zone on the structure is considered a  
169 separate pool as used herein.

170 (4)~~(7)~~ "Field" means the general area that ~~which~~ is  
171 underlaid, or appears to be underlaid, by at least one pool. The  
172 term; ~~and "field"~~ includes the underground reservoir, or  
173 reservoirs, containing oil or gas, or both. The terms ~~words~~  
174 "field" and "pool" mean the same thing if ~~when~~ only one

576-04968-13

2013958c3

175 underground reservoir is involved; however, the term "field,"  
176 unlike the term "pool," may relate to two or more pools.

177 (19)~~(8)~~ "Owner" means the person who has the right to drill  
178 into and to produce from any pool and to appropriate the  
179 production ~~either~~ for the person or for the person and another,  
180 or others.

181 (22)~~(9)~~ "Producer" means the owner or operator of a well or  
182 wells capable of producing oil or gas, or both.

183 (31)~~(10)~~ "Waste," in addition to its ordinary meaning,  
184 means "physical waste" as that term is generally understood in  
185 the oil and gas industry. The term "waste" includes:

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

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

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

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

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

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

576-04968-13

2013958c3

204 not defined.

205 (g) The creation of unnecessary fire hazards.

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

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

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

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

216 (23)~~(11)~~ "Product" means a ~~any~~ commodity made from oil or  
217 gas and includes refined crude oil, crude tops, topped crude,  
218 processed crude petroleum, residue from crude petroleum,  
219 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,  
220 residuum, gas oil, casinghead gasoline, natural gas gasoline,  
221 naphtha, distillate, condensate, gasoline, waste oil, kerosene,  
222 benzine, wash oil, blended gasoline, lubricating oil, blends or  
223 mixtures of oil with one or more liquid products or byproducts  
224 derived from oil or gas, and blends or mixtures of two or more  
225 liquid products or byproducts derived from oil or gas, whether  
226 hereinabove enumerated or not.

227 (8)~~(12)~~ "Illegal oil" means oil that ~~which~~ has been  
228 produced within the state from any well or wells in excess of  
229 the amount allowed by rule, regulation, or order of the  
230 division, as distinguished from oil produced within the state  
231 from a well not producing in excess of the amount so allowed,  
232 which is "legal oil."



576-04968-13

2013958c3

233        (7)~~(13)~~ "Illegal gas" means gas that ~~which~~ has been  
234 produced within the state from any well or wells in excess of  
235 the amount allowed by any rule, regulation, or order of the  
236 division, as distinguished from gas produced within the State of  
237 Florida from a well not producing in excess of the amount so  
238 allowed, which is "legal gas."

239        (9)~~(14)~~ "Illegal product" means a ~~any~~ product of oil or  
240 gas, any part of which was processed or derived, in whole or in  
241 part, from illegal gas or illegal oil or from any product  
242 thereof, as distinguished from "legal product," which is a  
243 product processed or derived to no extent from illegal oil or  
244 illegal gas.

245        (24)~~(15)~~ "Reasonable market demand" means the amount of oil  
246 reasonably needed for current consumption, together with a  
247 reasonable amount of oil for storage and working stocks.

248        (30)~~(16)~~ "Tender" means a permit or certificate of  
249 clearance for the transportation or the delivery of oil, gas, or  
250 products, approved and issued or registered under the authority  
251 of the division.

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

256        (32)~~(18)~~ "Well site" means the general area around a well,  
257 which area has been disturbed from its natural or existing  
258 condition, as well as the drilling or production pad, mud and  
259 water circulation pits, and other operation areas necessary to  
260 drill for or produce oil or gas, or to inject gas into and  
261 recover gas from a natural gas storage facility.

576-04968-13

2013958c3

262        ~~(17)(19)~~ "Oil and gas administrator" means the State  
263 Geologist.

264        ~~(18)(20)~~ "Operator" means the entity who:

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

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

270        ~~(1)(21)~~ "Completion date" means the day, month, and year  
271 that a new productive well, a previously shut-in well, or a  
272 temporarily abandoned well is completed, repaired, or  
273 recompleted and the operator begins producing oil or gas in  
274 commercial quantities.

275        ~~(26)(22)~~ "Shut-in well" means an oil or gas well that has  
276 been taken out of service for economic reasons or mechanical  
277 repairs.

278        ~~(29)(23)~~ "Temporarily abandoned well" means a permitted  
279 well or wellbore that has been abandoned by plugging in a manner  
280 that allows reentry and redevelopment in accordance with oil or  
281 gas rules of the Department of Environmental Protection.

282        ~~(14)(24)~~ "New field well" means an oil or gas well  
283 completed after July 1, 1997, in a new field as designated by  
284 the Department of Environmental Protection.

285        ~~(6)(25)~~ "Horizontal well" means a well completed with the  
286 wellbore in a horizontal or nearly horizontal orientation within  
287 10 degrees of horizontal within the producing formation.

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

290        (10) "Lateral storage reservoir boundary" means the

576-04968-13

2013958c3

291 projection up to the land surface of the maximum horizontal  
292 extent of the gas volume contained in a natural gas storage  
293 reservoir.

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

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

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

319 (16) "Oil and gas" has the same meaning as the term "oil or

576-04968-13

2013958c3

320 gas."

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

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

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

329 377.21 Jurisdiction of division.—

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

335 Section 9. Subsection (2) of section 377.22, Florida  
336 Statutes, is amended to read:

337 377.22 Rules and orders.—

338 (2) The department shall issue orders and adopt rules  
339 pursuant to ss. 120.536~~(1)~~ and 120.54 to implement and enforce  
340 the provisions of this chapter. Such rules and orders shall  
341 ensure that all precautions are taken to prevent the spillage of  
342 oil or any other pollutant in all phases of the drilling for,  
343 and extracting of, oil, gas, or other petroleum products, or  
344 during the injection of gas into and recovery of gas from a  
345 natural gas storage reservoir. The department shall revise such  
346 rules from time to time as necessary for the proper  
347 administration and enforcement of this chapter. Rules adopted  
348 and orders issued in accordance with this section are ~~shall be~~

576-04968-13

2013958c3

349 for, but ~~shall~~ not ~~be~~ limited to, the following purposes:

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

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

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

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

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

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

375 (g) To require and carry out a reasonable program of  
376 monitoring or inspection of all drilling operations, ~~or~~  
377 producing wells, or injecting wells, including regular

576-04968-13

2013958c3

378 inspections by division personnel.

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

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

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

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

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

403 (m) To prevent fires.

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

576-04968-13

2013958c3

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

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

412 (q) To regulate gas cycling operations.

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

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

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

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

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

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

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

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

576-04968-13

2013958c3

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

438 377.24 Notice of intention to drill well; permits;  
439 abandoned wells and dry holes.—

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

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

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

462 377.2407 Natural gas storage facility permit application to  
463 inject gas into and recover gas from a natural gas storage  
464 reservoir.—



576-04968-13

2013958c3

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

476       (2) Each application must contain:

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

481       (b) A geographic description of the lateral storage  
482 reservoir boundary.

483       (c) A general description and location of all injection,  
484 recovery, withdrawal-only, and observation wells.

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

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

489       (f) Information identifying all reasonably known abandoned  
490 or active wells within the natural gas storage facility.

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

576-04968-13

2013958c3

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

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

499 (j) A spill prevention and response plan.

500 (k) A well spacing plan.

501 (l) An operating plan for the natural gas storage  
502 reservoir, which must include gas capacities, anticipated  
503 operating conditions, and maximum storage pressure.

504 (m) A gas migration response plan.

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

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

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

576-04968-13

2013958c3

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

551 (2) Before issuing or recertifying a permit, the department

576-04968-13

2013958c3

552 shall require satisfactory evidence of the following:

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

557 (b) The applicant or operator has acquired a lawful right  
558 to drill, explore, or develop a natural gas storage reservoir  
559 from owners of at least 75 percent of the storage rights within  
560 the natural gas storage reservoir, or the applicant or operator  
561 has obtained a certificate of public convenience and necessity  
562 for the natural gas storage reservoir from the Federal Energy  
563 Regulatory Commission pursuant to the Natural Gas Act, 15 U.S.C.  
564 ss. 717 et seq.

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

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 (e) A determination has been made whether native gas or oil

576-04968-13

2013958c3

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

586 (3) The applicant shall maintain records of well pressures  
587 recorded monthly, and monthly volumes of gas injected into and  
588 withdrawn from the reservoir. These records shall be maintained  
589 at the natural gas storage facility and shall be made available  
590 for inspection by the department at any reasonable time.

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

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

604 (5) A permit may not be issued for a natural gas storage  
605 facility that includes a natural gas storage reservoir located  
606 beneath an underground source of drinking water unless the  
607 applicant demonstrates that the injection, storage, or recovery  
608 of natural gas will not cause or allow natural gas to migrate  
609 into the underground source of drinking water; in any offshore

576-04968-13

2013958c3

610 location in the Gulf of Mexico, the Straits of Florida, or the  
611 Atlantic Ocean; or in any solution-mined cavern within a salt  
612 formation.

613 (6) A natural gas storage facility permit issued by the  
614 department must contain a condition that requires the permittee  
615 to obtain the lawful right to develop a natural gas storage  
616 reservoir from the owners of 100 percent of the storage rights  
617 within the natural gas storage reservoir.

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

620 377.2432 Natural gas storage facilities; protection of  
621 water supplies.—

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

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

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

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

576-04968-13

2013958c3

639 later.

640 (3) If the affected underground water supply is within the  
641 rebuttable presumption area as provided in subsection (2) and  
642 the rebuttable presumption applies, the natural gas storage  
643 facility operator shall provide a temporary water supply if the  
644 water user is without a readily available alternative source of  
645 water at no cost to the owner or user of the affected water  
646 supply. The temporary water supply provided under this  
647 subsection must be adequate in quantity and quality for the  
648 purposes served by the affected supply.

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

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

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

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

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

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

665 (5) A natural gas storage facility operator electing to  
666 preserve a defense under subsection (4) must retain an  
667 independent certified laboratory to conduct a predrilling or

576-04968-13

2013958c3

668 prealteration survey of the water supply. A copy of survey  
669 results must be submitted to the department and the landowner or  
670 water purveyor in the manner prescribed by the department.

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

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

682 Section 16. Section 377.2433, Florida Statutes, is created  
683 to read:

684 377.2433 Protection of natural gas storage facilities;  
685 remedies.—

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

696 (2) As a condition for the issuance of a permit by the



576-04968-13

2013958c3

697 department, an applicant seeking to drill a well into or through  
698 a permitted natural gas storage facility boundary or reservoir  
699 protective area must provide the affected natural gas storage  
700 facility operator a reasonable right of entry to observe and  
701 monitor all drilling activities.

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

707 Section 17. Section 377.2434, Florida Statutes, is created  
708 to read:

709 377.2434 Property rights to injected natural gas.—

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

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

576-04968-13

2013958c3

726 storage facilities in a manner that will protect the facilities  
727 against pollution or the escape of stored natural gas.

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

731 (a) The injector or the injector's heirs, successors, or  
732 assigns:

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

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

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

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

746 377.25 Production pools; drilling units.—

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

576-04968-13

2013958c3

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

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

769 377.28 Cycling, pooling, and unitization of oil and gas.—

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

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

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

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

783

576-04968-13

2013958c3

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

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

793 377.30 Limitation on amount of oil or gas taken.—

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

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

798 377.34 Actions and injunctions by division.—

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

576-04968-13

2013958c3

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

822 Section 22. Paragraph (a) of subsection (1) of section  
823 377.37, Florida Statutes, is amended to read:

824 377.37 Penalties.—

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

576-04968-13

2013958c3

842 subject to the judicial imposition of a civil penalty in an  
843 amount of not more than \$10,000 for each offense. However, the  
844 court may receive evidence in mitigation. Each day during any  
845 portion of which such violation occurs constitutes a separate  
846 offense. Nothing herein shall give the department the right to  
847 bring an action on behalf of any private person.

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

850 377.371 Pollution prohibited; reporting, liability.—

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

857 (3) Because it is the intent of this chapter to provide the  
858 means for rapid and effective cleanup and to minimize damages  
859 resulting from pollution in violation of this chapter, if the  
860 waters of the state are polluted by the drilling, storage of  
861 natural gas, or production operations of any person or persons  
862 and such pollution damages or threatens to damage human, animal,  
863 or plant life, public or private property, or any mineral or  
864 water-bearing formation, said person shall be liable to the  
865 state for all costs of cleanup or other damage incurred by the  
866 state. In any suit to enforce claims of the state under this  
867 chapter, it is ~~shall~~ not ~~be~~ necessary for the state to plead or  
868 prove negligence in any form or manner on the part of the person  
869 or persons conducting the drilling or production operations; the  
870 state need only plead and prove the fact of the prohibited

576-04968-13

2013958c3

871 discharge or other polluting condition and that it occurred at  
872 the facilities of the person or persons conducting the drilling  
873 or production operation. A ~~No~~ person or persons conducting the  
874 drilling, storage, or production operation may not shall be held  
875 liable if said person or persons prove that the prohibited  
876 discharge or other polluting condition was the result of any of  
877 the following:

878 (a) An act of war.

879 (b) An act of government, either state, federal, or  
880 municipal.

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

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

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

890 403.973 Expedited permitting; amendments to comprehensive  
891 plans.—

892 (3)

893 (g) Projects for natural gas storage facilities that are  
894 permitted under chapter 377 are eligible for the expedited  
895 permitting process.

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

899 (14)

576-04968-13

2013958c3

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

910 (19) The following projects are ineligible for review under  
911 this part:

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

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

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

919 3. Extract natural resources.

920 4. Produce oil.

921 5. Construct, maintain, or operate an oil, petroleum,  
922 ~~natural gas,~~ or sewage pipeline.

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

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