

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

29 | to the department to issue permits to establish
30 | natural gas storage facilities; creating s. 377.2431,
31 | F.S.; establishing conditions and procedures for
32 | granting natural gas storage facility permits;
33 | limiting the right of a county or municipality to
34 | regulate natural gas storage facilities; creating s.
35 | 377.2432, F.S.; providing for the protection of water
36 | supplies at natural gas storage facilities; providing
37 | that an operator is presumed responsible for pollution
38 | of an underground water supply under certain
39 | circumstances; creating s. 377.2433, F.S.; providing
40 | for the protection of natural gas storage facilities
41 | through an administrative hearing; creating s.
42 | 377.2434, F.S.; providing that property rights to
43 | injected natural gas are with the injector or the
44 | injector's heirs, successors, or assigns; providing
45 | for compensation to the owner of the stratum and the
46 | owner of the surface for use of or damage to the
47 | surface or substratum; amending s. 377.25, F.S.;
48 | limiting the scope of certain drilling unit
49 | requirements; amending s. 377.28, F.S.; providing that
50 | the department may consider the need for the operation
51 | as a unit for the storage of natural gas; modifying
52 | situations in which the department is required to
53 | issue an order requiring unit operation; amending s.
54 | 377.29, F.S.; authorizing certain agreements between
55 | owners and operators of a natural gas storage
56 | facility; amending s. 377.30, F.S.; providing that

HB 1083

2013

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

76 |
77 | Be It Enacted by the Legislature of the State of Florida:

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

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

83 | 211.02 Oil production tax; basis and rate of tax; tertiary
84 | oil and mature field recovery oil.—An excise tax is hereby

85 | levied upon every person who severs oil in the state for sale,
 86 | transport, storage, profit, or commercial use. Except as
 87 | otherwise provided in this part, the tax is levied on the basis
 88 | of the entire production of oil in this state, including any
 89 | royalty interest. Such tax shall accrue at the time the oil is
 90 | severed and shall be a lien on production regardless of the
 91 | place of sale, to whom sold, or by whom used, and regardless of
 92 | the fact that delivery of the oil may be made outside the state.

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

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

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

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

112 | Section 4. Subsection (36) of section 376.301, Florida

113 Statutes, is amended to read:

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

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

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

122 377.06 Public policy of state concerning natural resources
 123 of oil and gas.—It is hereby declared ~~to be~~ the public policy of
 124 this ~~the~~ state to conserve and control the natural resources of
 125 oil and gas in this ~~said~~ state, and the products made from oil
 126 and gas in this state ~~therefrom~~; to prevent waste of ~~said~~
 127 natural resources; to provide for the protection and adjustment
 128 of the correlative rights of the owners of the land in which the
 129 ~~wherein said~~ natural resources lie, of ~~and~~ the owners and
 130 producers of oil and gas resources and the products made from
 131 oil and gas ~~therefrom~~, and of others interested in these
 132 resources and products ~~therein~~; to safeguard the health,
 133 property, and public welfare of the residents ~~citizens~~ of this
 134 ~~said~~ state and other interested persons and for all purposes
 135 indicated by the provisions in this section ~~herein~~. Further, it
 136 is declared that underground storage of natural gas is in the
 137 public interest because underground storage promotes
 138 conservation of natural gas; makes gas more readily available to
 139 the domestic, commercial, and industrial consumers of this
 140 state; and allows the accumulation of large quantities of gas in

141 reserve for orderly withdrawal during emergencies or periods of
 142 peak demand. It is not the intention of this section to limit,
 143 ~~or~~ restrict, or modify in any way the provisions of this law.

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

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

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

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

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

161 (2) "Department" means the Department of Environmental
 162 Protection.

163 ~~(3)-(4)~~ (3) "Division" means the Division of Resource
 164 Management of the Department of Environmental Protection.

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

HB 1083

2013

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

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

174 (6) ~~(25)~~ "Horizontal well" means a well completed with the
 175 wellbore in a horizontal or nearly horizontal orientation within
 176 10 degrees of horizontal within the producing formation.

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

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

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

195 (10) "Lateral storage reservoir boundary" means the
 196 projection up to the land surface of the maximum horizontal

197 | extent of the gas volume contained in a natural gas storage
 198 | reservoir.

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

203 | (12) "Natural gas storage facility" means an underground
 204 | reservoir used or to be used for the underground storage of
 205 | natural gas, and any surface or subsurface structure,
 206 | infrastructure, right, or appurtenance necessary or useful in
 207 | the operation of the facility for the underground storage of
 208 | natural gas, including any necessary or reasonable reservoir
 209 | protective area as designated for the purpose of ensuring the
 210 | safe operation of the storage of natural gas or protecting the
 211 | natural gas storage facility from pollution, invasion, escape,
 212 | or migration of gas, or any subsequent extension thereof.

213 | (13) "Natural gas storage reservoir" means a pool or field
 214 | suitable for or capable of being made suitable for the
 215 | injection, storage, and recovery of gas.

216 | (14)-(24) "New field well" means an oil or gas well
 217 | completed after July 1, 1997, in a new field as designated by
 218 | the Department of Environmental Protection.

219 | (15)-(4) "Oil" means crude petroleum oil and other
 220 | hydrocarbons, regardless of gravity, which are produced at the
 221 | well in liquid form by ordinary production methods, and which
 222 | are not the result of condensation of gas after it leaves the
 223 | reservoir.

224 | (16) "Oil and gas" has the same meaning as the term "oil

225 or gas."

226 (17)~~(19)~~ "Oil and gas administrator" means the State
227 Geologist.

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

232 (18)~~(20)~~ "Operator" means the entity who:

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

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

238 (19)~~(8)~~ "Owner" means the person who has the right to
239 drill into and to produce from any pool and to appropriate the
240 production ~~either~~ for the person or for the person and another,
241 or others.

242 (20)~~(3)~~ "Person" means a ~~any~~ natural person, corporation,
243 association, partnership, receiver, trustee, guardian, executor,
244 administrator, fiduciary, or representative of any kind.

245 (21)~~(6)~~ "Pool" means an underground reservoir containing
246 or appearing to contain a common accumulation of oil or gas or
247 both. Each zone of a general structure which is completely
248 separated from any other zone on the structure is considered a
249 separate pool as used herein.

250 (22)~~(9)~~ "Producer" means the owner or operator of a well
251 or wells capable of producing oil or gas, or both.

252 (23)~~(11)~~ "Product" means a ~~any~~ commodity made from oil or

253 gas and includes refined crude oil, crude tops, topped crude,
 254 processed crude petroleum, residue from crude petroleum,
 255 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,
 256 residuum, gas oil, casinghead gasoline, natural gas gasoline,
 257 naphtha, distillate, condensate, gasoline, waste oil, kerosene,
 258 benzine, wash oil, blended gasoline, lubricating oil, blends or
 259 mixtures of oil with one or more liquid products or byproducts
 260 derived from oil or gas, and blends or mixtures of two or more
 261 liquid products or byproducts derived from oil or gas, whether
 262 hereinabove enumerated or not.

263 (24)~~(15)~~ "Reasonable market demand" means the amount of
 264 oil reasonably needed for current consumption, together with a
 265 reasonable amount of oil for storage and working stocks.

266 (25) "Reservoir protective area" means the area extending
 267 up to and including 2,000 feet surrounding a natural gas lateral
 268 storage reservoir boundary.

269 (26)~~(22)~~ "Shut-in well" means an oil or gas well that has
 270 been taken out of service for economic reasons or mechanical
 271 repairs.

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

275 (28)~~(2)~~ "State" means the State of Florida.

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

280 (30)~~(16)~~ "Tender" means a permit or certificate of

281 clearance for the transportation or the delivery of oil, gas, or
 282 products, approved and issued or registered under the authority
 283 of the division.

284 ~~(31)-(10)~~ "Waste," in addition to its ordinary meaning,
 285 means "physical waste" as that term is generally understood in
 286 the oil and gas industry. The term "waste" includes:

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

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

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

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

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

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

307 (g) The creation of unnecessary fire hazards.

308 (h) The escape into the open air, from a well producing

HB 1083

2013

309 both oil and gas, of gas in excess of the amount that ~~which~~ is
 310 necessary in the efficient drilling or operation of the well.

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

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

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

318 ~~(32)-(18)~~ "Well site" means the general area around a well,
 319 which area has been disturbed from its natural or existing
 320 condition, as well as the drilling or production pad, mud and
 321 water circulation pits, and other operation areas necessary to
 322 drill for or produce oil or gas, or to inject gas into and
 323 recover gas from a natural gas storage facility.

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

326 377.21 Jurisdiction of division.—

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

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

336 377.22 Rules and orders.—

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

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

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

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

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

363 (e) To prevent the intrusion of water into an oil or gas
 364 stratum from a separate stratum, except as provided by rules of

365 the division relating to the injection of water for proper
 366 reservoir conservation and brine disposal.

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

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

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

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

392 (j) To prevent the drowning by water of any stratum, or

HB 1083

2013

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

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

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

402 (m) To prevent fires.

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

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

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

411 (q) To regulate gas cycling operations.

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

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

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

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

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

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

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

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

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

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

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

447 (1) Before drilling a any well in search of oil or gas, or
 448 before storing gas in or recovering gas from a natural gas

HB 1083

2013

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

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

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

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

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

477 processing to obtain a natural gas storage facility permit.

478 (2) Each application must contain:

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

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

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

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

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

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

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

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

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

502 (j) A casing inspection plan.

503 (k) A spill prevention and response plan.

504 (l) A well spacing plan.

HB 1083

2013

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

508 (n) A gas migration response plan.

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

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

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

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

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

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

HB 1083

2013

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

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

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

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

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

551 (2) Before issuing or reissuing a permit, the division
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 a majority of the property interests, which may be acquired
560 through eminent domain or by any legal instrument conveying to

HB 1083

2013

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

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

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

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

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

587 (a) The maximum shut-in wellhead pressure may not exceed
588 the highest shut-in wellhead pressure found to exist during the

HB 1083

2013

589 production history of the reservoir, unless a higher pressure is
590 established by the department based on testing of caprock and
591 pool containment. The methods used for determining the higher
592 pressure must be approved by the department.

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

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

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

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

610 377.2432 Natural gas storage facilities; protection of
611 water supplies.—

612 (1) An operator of a natural gas storage facility who
613 affects a public or private underground water supply by
614 pollution or diminution shall restore or replace the affected
615 supply with an alternate source of water adequate in quantity
616 and quality for the purposes served by the supply. The

HB 1083

2013

617 department shall ensure that the quality of restored or replaced
618 water is comparable to the quality of the water before it was
619 affected by the operator.

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

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

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

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

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

639 (a) The pollution existed before the drilling or
640 alteration activity as determined by a predrilling or
641 prealteration survey.

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

HB 1083

2013

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

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

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

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

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

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

670 Section 16. Section 377.2433, Florida Statutes, is created
671 to read:

672 377.2433 Protection of natural gas storage facilities;

HB 1083

2013

673 remedies.-

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

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

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

695 (4) A natural gas storage facility operator may petition
696 the department for a determination that any other activity is
697 causing gas migration, escape, or loss, or in any other respect
698 adversely affecting the integrity and use of the natural gas
699 storage reservoir. Upon the filing of such petition, the
700 department shall conduct a preliminary investigation and make a

HB 1083

2013

701 preliminary determination of whether probable cause exists to
702 believe that the allegations of the petition may be true and
703 correct. If the department determines that probable cause
704 exists, the department shall:

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

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

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

721 Section 17. Section 377.2434, Florida Statutes, is created
722 to read:

723 377.2434 Property rights to injected natural gas.—

724 (1) All natural gas that has previously been reduced to
725 possession and that is subsequently injected into a natural gas
726 storage facility, whether the storage rights were acquired by
727 eminent domain or otherwise, are at all times the property of
728 the injector or the injector's heirs, successors, or assigns,

729 whether owned by the injector or stored under contract.

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

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

746 (a) The injector or the injector's heirs, successors, or
 747 assigns:

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

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

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

HB 1083

2013

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

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

761 377.25 Production pools; drilling units.—

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

783 Section 19. Subsections (1), (2), and (4) of section
784 377.28, Florida Statutes, are amended to read:

785 377.28 Cycling, pooling, and unitization of oil and gas.—

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

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

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

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

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

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

813 hydrocarbons, any other substance, or any combination thereof;
 814 or any other method of producing additional hydrocarbons
 815 approved by the department.

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

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

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

837
 838 ~~, and the department has made a finding to that effect either in~~
 839 ~~the order or in a supplemental order.~~ Both contracts may be
 840 encompassed in a single document. If ~~In the event~~ the required

HB 1083

2013

841 percentage interests have not signed, ratified, or approved the
842 ~~said~~ agreements within 6 months after the date of such order, or
843 within such extended period as the department may prescribe, it
844 shall be automatically revoked.

845 Section 20. Section 377.29, Florida Statutes, is amended
846 to read:

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

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

865 377.30 Limitation on amount of oil or gas taken.—

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

868 Section 22. Subsection (1) of section 377.34, Florida

HB 1083

2013

869 Statutes, is amended to read:

870 377.34 Actions and injunctions by division.—

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

894 Section 23. Paragraph (a) of subsection (1) of section
895 377.37, Florida Statutes, is amended to read:

896 377.37 Penalties.—

897 (1) (a) Any person who violates any provision of this law
 898 or any rule, regulation, or order of the division made under
 899 this chapter or who violates the terms of any permit to drill
 900 for or produce oil, gas, or other petroleum products referred to
 901 in s. 377.242(1), or to store gas in a natural gas storage
 902 facility, or any lessee, permitholder, or operator of equipment
 903 or facilities used in the exploration for, drilling for, or
 904 production of oil, gas, or other petroleum products, or storage
 905 of gas in a natural gas storage facility, who refuses inspection
 906 by the division as provided in this chapter, is liable to the
 907 state for any damage caused to the air, waters, or property,
 908 including animal, plant, or aquatic life, of the state and for
 909 reasonable costs and expenses of the state in tracing the source
 910 of the discharge, in controlling and abating the source and the
 911 pollutants, and in restoring the air, waters, and property,
 912 including animal, plant, and aquatic life, of the state.
 913 Furthermore, such person, lessee, permitholder, or operator is
 914 subject to the judicial imposition of a civil penalty in an
 915 amount of not more than \$10,000 for each offense. However, the
 916 court may receive evidence in mitigation. Each day during any
 917 portion of which such violation occurs constitutes a separate
 918 offense. Nothing herein shall give the department the right to
 919 bring an action on behalf of any private person.

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

922 377.371 Pollution prohibited; reporting, liability.-

923 (1) A ~~No~~ person drilling for or producing oil, gas, or
 924 other petroleum products, or storing gas in a natural gas

925 | storage facility, may not ~~shall~~ pollute land or water; damage
 926 | aquatic or marine life, wildlife, birds, or public or private
 927 | property; or allow any extraneous matter to enter or damage any
 928 | mineral or freshwater-bearing formation.

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

- 950 | (a) An act of war.
- 951 | (b) An act of government, either state, federal, or
- 952 | municipal.

HB 1083

2013

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

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

958 Section 25. Paragraph (g) is added to subsection (3) of
959 section 403.973, Florida Statutes, and paragraph (b) of
960 subsection (14) of that section is amended, to read:

961 403.973 Expedited permitting; amendments to comprehensive
962 plans.—

963 (3)

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

967 (14)

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

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