

## CHAPTER 2013-205

### Committee Substitute for Committee Substitute for Committee Substitute for House Bill No. 1083

An act relating to underground natural gas storage; providing a short title; amending s. 211.02, F.S.; narrowing the use of the term “oil”; amending s. 211.025, F.S.; narrowing the scope of the gas production tax to apply only to native gas; amending s. 376.301, F.S.; conforming a cross-reference; amending s. 377.06, F.S.; declaring underground natural gas storage to be in the public interest; amending s. 377.18, F.S.; clarifying common sources of oil and gas; amending s. 377.19, F.S.; modifying and providing definitions; amending s. 377.21, F.S.; extending the jurisdiction of the Division of Resource Management of the Department of Environmental Protection; amending s. 377.22, F.S.; expanding the scope of the department’s rules and orders; amending s. 377.24, F.S.; providing for the notice and permitting of storage in and recovery from natural gas storage reservoirs; creating s. 377.2407, F.S.; establishing a natural gas storage facility permit application process; specifying requirements for an application, including fees; amending s. 377.241, F.S.; providing criteria that the division must consider in issuing permits; amending s. 377.242, F.S.; granting authority to the department to issue permits to establish natural gas storage facilities; creating s. 377.2431, F.S.; establishing conditions and procedures for granting natural gas storage facility permits; prohibiting the issuance of permits for facilities located in specified areas; creating s. 377.2432, F.S.; providing for the protection of water supplies at natural gas storage facilities; providing that an operator is presumed responsible for pollution of an underground water supply under certain circumstances; creating s. 377.2433, F.S.; providing for the protection of natural gas storage facilities through requirement of notice, compliance with certain standards, and a right of entry to monitor activities; creating s. 377.2434, F.S.; providing that property rights to injected natural gas are with the injector or the injector’s heirs, successors, or assigns; providing for compensation to the owner of the stratum and the owner of the surface for use of or damage to the surface or substratum; amending s. 377.25, F.S.; limiting the scope of certain drilling unit requirements; amending s. 377.28, F.S.; modifying situations in which the department is required to issue an order requiring unit operation; amending s. 377.30, F.S.; providing that limitations on the amount of oil or gas taken do not apply to nonnative gas recovered from a permitted natural gas storage facility; amending s. 377.34, F.S.; providing for legal action against a person who appears to be violating a rule that relates to the storage or recovery of natural gas; amending s. 377.37, F.S.; expanding penalties to reach persons who violate the terms of a permit relating to storage of gas in a natural gas storage facility; amending s. 377.371, F.S.; providing that a person storing gas in a natural gas storage facility may not pollute or otherwise damage certain areas and that a person who pollutes water by storing natural gas is liable for cleanup or other costs incurred by the state;

amending s. 403.973, F.S.; allowing expedited permitting for natural gas storage facilities permitted under ch. 377, F.S., and certain projects to construct interstate natural gas pipelines; providing that natural gas storage facilities are subject to certain requirements; directing the department to adopt certain rules before issuing permits for natural gas storage facilities; providing an effective date.

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

Section 1. This act may be cited as the “Florida Underground Natural Gas Storage Act.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(2)~~ “Department” means the Department of Environmental Protection.

~~(3)(4)~~ “Division” means the Division of Resource Management of the Department of Environmental Protection.

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

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

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

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

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

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

~~(9)~~(14) “Illegal product” means a ~~any~~ product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from “legal product,” which is a product processed or derived to no extent from illegal oil or illegal gas.

(10) “Lateral storage reservoir boundary” means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.

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

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

(13) “Natural gas storage reservoir” means a pool or field from which gas or oil has previously been produced and which is suitable for or capable of

being made suitable for the injection, storage, and recovery of gas, as identified in a permit application submitted to the department under s. 377.2407.

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

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

(16) “Oil and gas” has the same meaning as the term “oil or gas.”

~~(17)~~(19) “Oil and gas administrator” means the State Geologist.

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

~~(18)~~(20) “Operator” means the entity who:

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

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

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

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

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

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

~~(23)~~(11) “Product” means a ~~any~~ commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil

with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

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

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

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

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

~~(28)~~(2) “State” means the State of Florida.

~~(29)~~(23) “Temporarily abandoned well” means a permitted well or well-bore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

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

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

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

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

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

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

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

- (f) The underground waste, however caused and whether or not defined.
- (g) The creation of unnecessary fire hazards.
- (h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that which is necessary in the efficient drilling or operation of the well.
- (i) The use of gas for the manufacture of carbon black.
- (j) Permitting gas produced from a gas well to escape into the air.
- (k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

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

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

377.21 Jurisdiction of division.—

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

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

377.22 Rules and orders.—

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

- (a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or

the lands of the state and to protect the integrity of natural gas storage reservoirs.

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

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

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

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

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

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

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

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

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

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



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

(m) To prevent fires.

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

(o) To regulate the “shooting,” perforating and chemical treatment of wells.

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

(q) To regulate gas cycling operations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Each application must contain:

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

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

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

(d) A description of the reservoir protective area.

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

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

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

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

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

(j) A spill prevention and response plan.

(k) A well spacing plan.

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

(m) A gas migration response plan.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

377.2433 Protection of natural gas storage facilities; remedies.—

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

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

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

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

377.2434 Property rights to injected natural gas.—

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

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

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

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

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

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

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

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

377.25 Production pools; drilling units.—

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

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

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

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

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



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

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

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

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

377.30 Limitation on amount of oil or gas taken.—

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

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

377.34 Actions and injunctions by division.—

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

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

377.37 Penalties.—

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

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

377.371 Pollution prohibited; reporting, liability.—

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

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

(a) An act of war.

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

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

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

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

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

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

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

(14)

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

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

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

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

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

3. Extract natural resources.

4. Produce oil.

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

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

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

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.