



Agriculture & Natural Resources Appropriations Subcommittee

December 2, 2015
8:00 – 11:00 AM
Reed Hall

Meeting Packet



The Florida House of Representatives

Appropriations Committee

Agriculture & Natural Resources Appropriations Subcommittee

Steve Crisafulli
Speaker

Ben Albritton
Chair

December 2, 2015

AGENDA
8:00 AM – 11:00 AM
Reed Hall

- I. Call to Order/Roll Call
- II. Presentation of the Governor's Recommended Budget for Fiscal Year 2016-2017

Executive Office of the Governor, Office of Policy & Budget—Environment Unit

Noah Valenstein, Executive Director of the Suwannee River Water Management District

Florida Department of Environmental Protection

Jon Steverson, Secretary

- III. HB 191—Regulation of Oil and Gas Resources by R. Rodrigues and Pigman
- IV. Closing/Adjourn

FLORIDA FIRST

GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017



Policy and Budget Recommendations

FLORIDA 1ST FOR JOBS

Governor Scott's priorities to help diversify the economy to make Florida First in job creation:

Tax Cuts for Florida Families and Businesses

Over \$1 billion in Tax Cuts

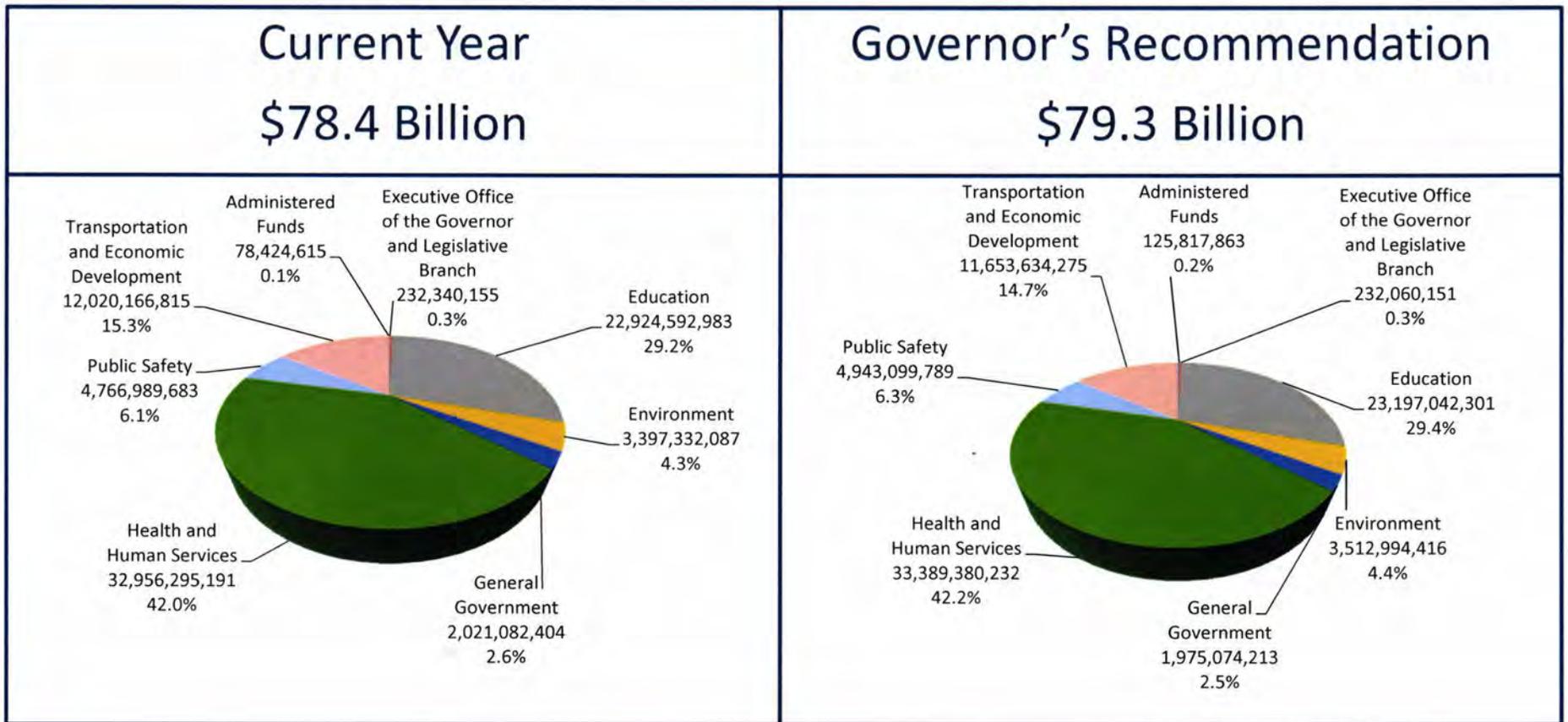
Making Florida more Competitive

Help small businesses succeed

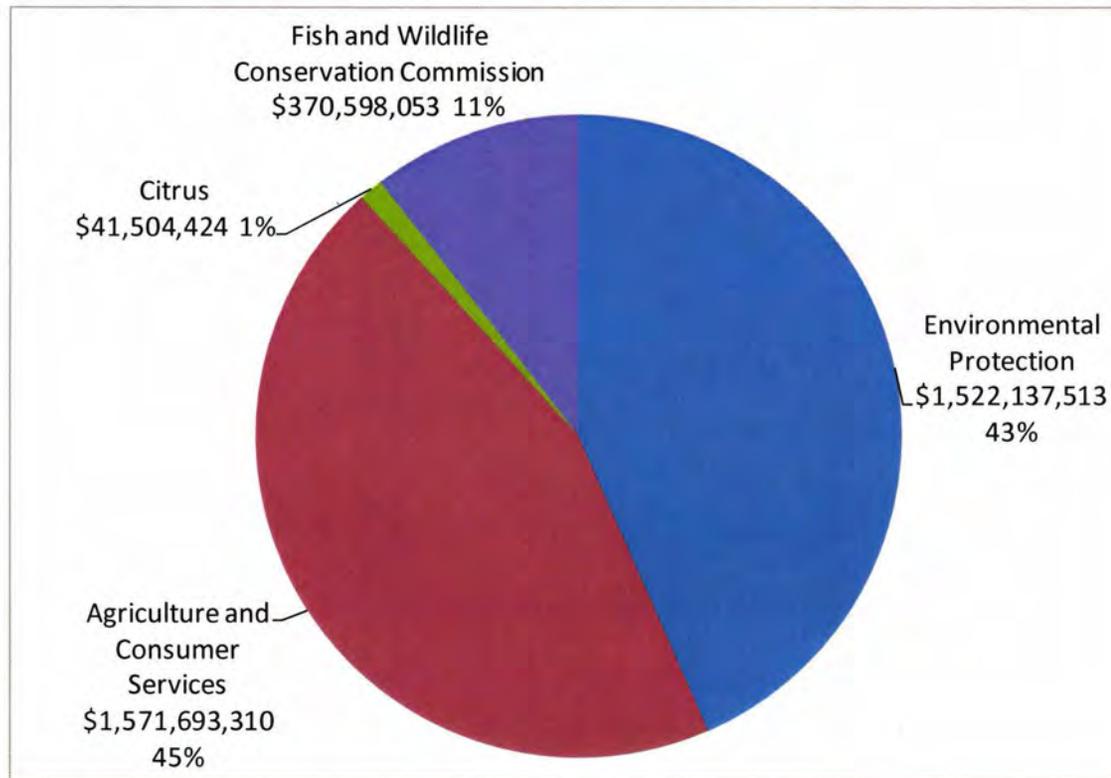
**Investing Historic Funding in K-12 Education,
State Colleges, and Universities**

Florida will have the most highly skilled
workforce in the world

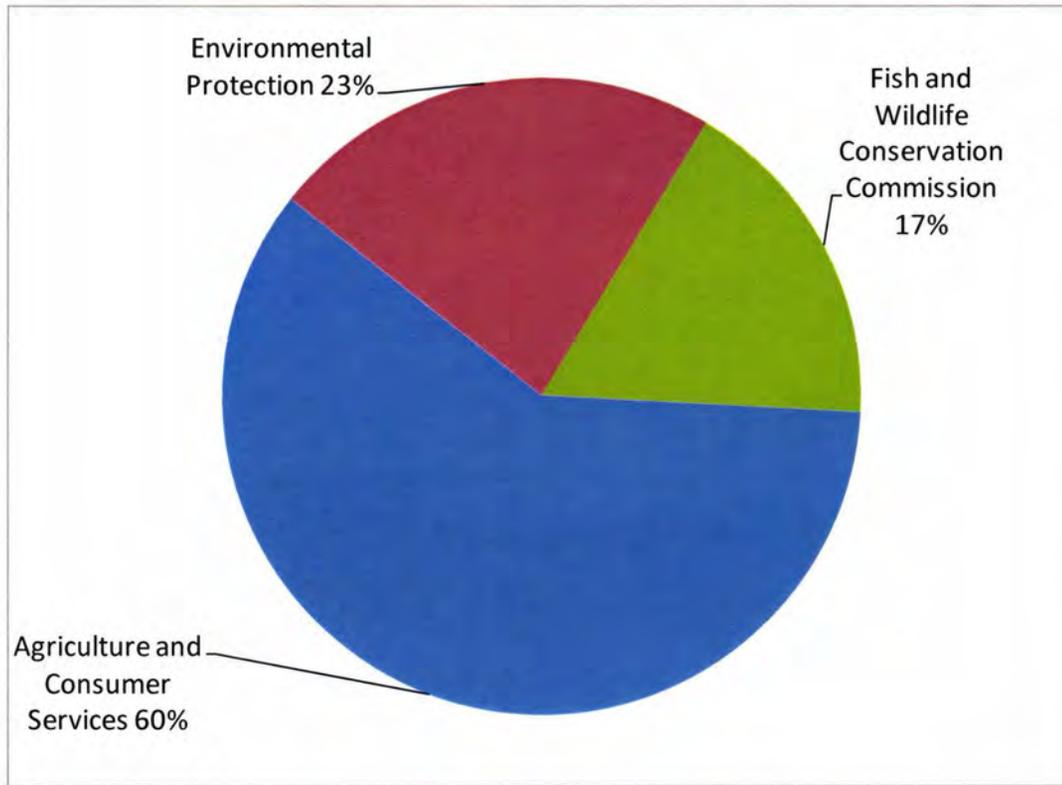
Governor's Budget Recommendations By Policy Area



Governor's Recommended Budget Fiscal Year 2016-17 Environment - \$ 3.5 Billion

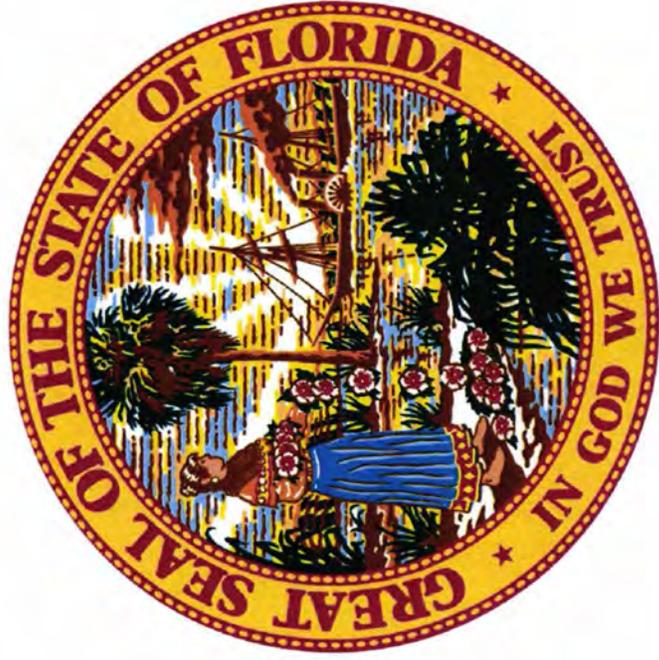


Governor's Recommended Budget Fiscal Year 2016-17 General Revenue - \$ 164.3 Million



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GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017



Policy and Budget
Recommendations

Department of
Environmental Protection

Environmental Protection

\$1.5 Billion

Investing in Florida's water and unique ecosystems.

- **\$188 million** for Everglades Restoration (**\$5 billion** over 20 years)
- **\$50 million** for Springs Restoration (**\$1.6 billion** over 20 years)
- **\$50 million** for Sustainable Water Supply

Environmental Protection

\$1.5 Billion

Investing in Florida's natural lands and improving recreational opportunities for Florida families and tourists.

- **\$63 million** for Land Acquisition
- **\$45.5 million** State Parks
 - \$19 million Repairs, Renovations and Development
 - \$16.5 million Trails, Marketing and IT Investments
 - \$10 million Land Management
- **\$25 million** for Beaches

Environmental Protection \$1.5 Billion

Investing in the clean up of contaminated sites throughout Florida.

- **\$125 million** for Petroleum Tank Cleanup Projects
- **\$6.5 million** for Dry Cleaning Site Cleanup
- **\$4.5 million** for Hazardous Waste Cleanup
- **\$3.2 million** for Non-Mandatory Land Reclamation Projects

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GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017



Policy and Budget Recommendations

Department of Agriculture and
Consumer Services

Fish and Wildlife Conservation
Commission

Other Priority Issues

- **\$16.2 million** for Citrus Research and Protection
- **\$16.7 million** for Additional Land Management
 - \$15.5 million for Wildlife Management Area Improvements
 - \$866,270 for Babcock Ranch
 - \$340,298 for Florida Forever – Dedicated Funding

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GOVERNOR RICK SCOTT'S FLORIDA FIRST BUDGET 2016-2017



Policy and Budget Recommendations

HB 191

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 191 Regulation of Oil and Gas Resources
SPONSOR(S): Rodrigues and others
TIED BILLS: IDEN./SIM. BILLS: SB 318

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|----------|-------------------|--|
| 1) Agriculture & Natural Resources Subcommittee | 9 Y, 4 N | Gregory | Harrington |
| 2) Agriculture & Natural Resources Appropriations Subcommittee | | Helping <i>CH</i> | Massengale <i>Sm</i> |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

The Department of Environmental Protection's (DEP) Mining and Minerals Regulation Program in the Division of Water Resource Management (Division) oversees permitting for oil and gas drilling, production, and exploration within Florida through its Oil and Gas Program (Program). The Program's primary responsibilities include conservation of oil and gas resources, correlative rights protection, maintenance of health and human safety, and environmental protection.

The bill makes the following revisions related to the Program:

- Preempts to the state the ability to regulate any activity related to oil and gas exploration, development, production, processing, storage, and transportation;
- Voids any county, municipality, or other political subdivision's ordinance or regulation (except for zoning ordinances passed before January 1, 2015) related to oil and gas exploration, development, production, processing, storage, and transportation;
- Empowers DEP to issue a single permit that authorizes multiple Program activities;
- Requires the Division, when determining whether to issue a permit, to consider the history of past adjudicated violations committed by the applicant or an affiliated entity of any rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state;
- Allows information about past violations to be used as a basis for permit denial or imposition of permit conditions, including increased monitoring or increasing the required surety amount to up to five times the standard amount;
- Requires DEP to conduct inspections during specified Program activities;
- Defines "high-pressure well stimulation" as all stages of a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. The term does not include well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore;
- Requires a well operator to obtain a permit, pay a fee, and provide a surety to DEP prior to performing a high-pressure well stimulation;
- Requires DEP to conduct a study on the potential effects of performing high-pressure well stimulations and provides an appropriation for the study;
- Requires certain individuals to report information relating to high-pressure well stimulations to DEP, including each chemical ingredient used in the well stimulation fluid, within 60 days of initiating the well stimulation;
- Requires DEP to designate the national chemical registry, known as FracFocus, as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed;
- Removes the requirement to receive municipal approval prior to granting an permit to drill a gas or oil well within the municipality's jurisdiction;
- Increases the maximum civil penalty for violation of any provision of the laws governing energy resources, including any rule, regulation, or order of the Division, or an oil or gas permit from \$10,000 to \$25,000 per offense; and
- Requires DEP to adopt rules to implement these changes. DEP may not issue permits to authorize high-pressure well stimulation until DEP adopts rules for high-pressure well stimulation.

The bill has a significant negative fiscal impact on the state, an indeterminate but likely insignificant fiscal impact on local governments, and an indeterminate negative fiscal impact on the private sector.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0191b.ANRAS.DOCX

DATE: 11/4/2015

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Oil and Gas Production in Florida

Oil and gas production occurs in two major areas of Florida: the Sunniland Trend in South Florida and the Jay Field in the western panhandle.¹ The Sunniland Trend began producing in 1943 and is located in Lee, Hendry, Collier, and Dade counties.² The Jay Field, located in Escambia and Santa Rosa counties, began producing in 1970.³ Oil production from the two regions peaked at 48 million barrels in 1978, but steadily declined over the years, producing only 2.2 million barrels in 2014.⁴ Natural gas production decreased as well, from 52 billion cubic feet in 1978 to approximately 21 billion cubic feet in 2014.⁵ There are currently 161 oil and gas wells actively operating in Florida.⁶

The Oil and Gas Program

The Department of Environmental Protection's (DEP) Mining and Minerals Regulation Program in the Division of Water Resource Management (Division) oversees permitting for oil and gas drilling, production, and exploration within Florida through its Oil and Gas Program (Program).⁷ The Program's primary responsibilities include conserving and controlling the state's oil and gas resources and products; protecting the correlative rights of landowners, owners and producers of oil and gas resources and products, and others interested in these resources and products; safeguarding the health, property, and public welfare of the state's residents; and protecting the environment.⁸ DEP addresses these concerns through a system of permits and field inspections to ensure compliance.

DEP must adopt rules and issue orders to implement and enforce the Program.⁹ The rules and orders must 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.¹⁰ DEP must adopt rules and orders for the following purposes:

- 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;
- To prevent the alteration of the sheet flow of water in any area;
- 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;
- 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;

¹ Jacqueline M. Lloyd, *Florida Geological Survey Information Circular No. 107*, June 1991, available at <http://ufdcweb1.uflib.ufl.edu/UF00001168/00001/3x>.

² Id.

³ Id.

⁴ DEP, *Annual Production Reports*, available at http://www.dep.state.fl.us/water/mines/oil_gas/data.htm (last visited September 17, 2015).

⁵ Id.

⁶ Email from Amanda Marsh, Office of Legislative Affairs, DEP, RE: Oil and Gas Info (October 14, 2015).

⁷ The Oil and Gas Program is governed by part 1 of ch. 377, F.S., and chs. 62C-25 through 62C-30, F.A.C.

⁸ Section 377.06, F.S.

⁹ Section 377.22(2), F.S.

¹⁰ Id.

- To prevent the intrusion of water into an oil or gas stratum from a separate stratum;
- 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;
- To require and carry out a reasonable program of monitoring or inspection of all drilling operations, producing wells, or injecting wells, including regular inspections by division personnel;
- 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;
- To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, property, or natural gas storage reservoirs;
- 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.
- To require the operation of wells with efficient gas-oil ratio, and to fix such ratios;
- To prevent "blowouts," "caving," and "seepage;"
- To prevent fires;
- To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities;
- To regulate the "shooting," perforating and chemical treatment of wells;
- To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations;
- To regulate gas cycling operations;
- To regulate the storage and recovery of gas injected into natural gas storage facilities;
- To, if necessary, determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state;
- To require certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product;
- To regulate the spacing of wells and to establish drilling units;
- To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage;
- 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;
- To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state; and
- 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.¹¹

Permitting

DEP possesses the power and authority to issue permits:

- For the drilling for, exploring for, or production of oil, gas, or other petroleum products that are to be extracted from below the surface of the land, including submerged land, only through the well hole drilled for oil, gas, and other petroleum products.¹²

¹¹ Id.

¹² Section 377.242(1), F.S.

- To explore for and extract minerals that are subject to extraction from the land by means other than through a well hole.¹³
- To establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for storage in natural gas storage reservoirs.¹⁴

Before any geophysical operation in search of oil, gas, or minerals, the person desiring to conduct the operation must apply for a permit from DEP and pay a processing fee.¹⁵ Geophysical operations consist of using various methods to locate geologic structures in the ground that could contain oil or gas.¹⁶ These methods include gravity surveys, magnetic surveys, and seismic surveys.¹⁷ The industry uses seismic surveys as its primary tool for locating areas containing oil or gas.¹⁸ These surveys consist of using explosives or heavy vibrations to create sound pulses in the ground that reflect off geologic structures and are then captured by specialized microphones.¹⁹ The surveyors use the collected data to establish drilling targets.

After a drilling target is established, a person who would like to drill a well in search of oil or gas or drill a well to inject gas into and recover gas from a natural gas storage reservoir must notify the Division, pay a fee,²⁰ and obtain a separate permit authorizing the drilling before the drilling commences.²¹ These drilling permits are valid for one year and may be renewed for an additional year provided the permit holder does not request any substantive changes.²² After a well is drilled, a person must obtain a separate operating permit and pay a fee²³ before using the well for its intended purpose, such as producing oil, disposing of saltwater, or injecting fluids for pressure maintenance.²⁴ An operating permit is valid for the life of the well, but both the well and permit must be re-certified every five years.²⁵ A person must obtain a separate permit before they store gas in or recover gas from a natural gas storage reservoir.²⁶

When evaluating a permit application, DEP must consider:

- The nature, character, and location of the lands involved; and whether the lands are rural, such as farms, groves, or ranches, or urban property vacant or presently developed for residential or business purposes or are in such a location or of such a nature as to make such improvements and developments a probability in the near future;
- The nature, type, and extent of ownership of the applicant, including such matters as the length of time the applicant has owned the rights claimed without having performed any of the exploratory operations so granted or authorized;
- The proven or indicated likelihood of the presence of oil, gas, or related minerals in such quantities as to warrant the exploration and extraction of such products on a commercially profitable basis; and
- For activities and operations concerning a natural gas storage facility, whether 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.²⁷

¹³ Section 377.242(2), F.S.

¹⁴ Section 377.242(3), F.S.

¹⁵ Section 377.2408(1), F.S.

¹⁶ Department of Environmental Protection, *Oil & Gas: Geophysical Prospecting*, available at

http://www.dep.state.fl.us/water/mines/oil_gas/docs/OilGasGeophysicalProspectingFactSheet.pdf (last visited September 16, 2015).

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ The fee to apply for a drilling permit is currently \$2,000. Rule 62C-26.003(8), F.A.C.

²¹ Sections 377.24 and 377.2407, F.S.

²² Rule 62C-26.007(4), F.A.C.

²³ The fee to apply for an operating permit is currently \$2,000. Rule 62C-26.008(3), F.A.C.

²⁴ Rule 62C-26.008, F.A.C.

²⁵ Id.

²⁶ Section 377.24(1), F.S.

²⁷ Section 377.241, F.S.

DEP must weigh these criteria and balance environmental interests against the applicant's right to explore for oil.²⁸

DEP may not permit to drill a well in search of oil or gas:

- In Florida's territorial waters in the gulf of Mexico or Atlantic Ocean;²⁹
- In bays or estuaries;³⁰
- Within one mile of coastline;³¹
- Within 1 mile of seaward boundary of any local, state, or federal park or aquatic or wildlife preserve;³² and
- Within 1 mile inland from Gulf, Atlantic, any bay, or any estuary 1 mile of any freshwater lake, river, or stream unless the DEP is satisfied that the natural resources of such bodies of water and shore areas of the state will be adequately protected in the event of accident or blowout.³³

Payment of Surety

Before DEP may grant a permit, the permit applicant must provide surety that the exploration, drilling, or production activity requested in the application will be conducted in a safe and environmentally compatible manner.³⁴ An applicant for a drilling, production, or injection well permit or a geophysical permit may provide the following types of surety to meet this requirement:

- A deposit of cash or other securities made payable to the Minerals Trust Fund;
- A bond of a surety company authorized to do business in the state; or
- A surety in the form of an irrevocable letter of credit guaranteed by an acceptable financial institution.³⁵

Individuals conducting geophysical operations must provide a surety of \$25,000 per field crew or \$100,000 per operation.³⁶ For wells, the amount of the required surety varies based on the depth of the well drilled and whether the well becomes an operating well.³⁷ Currently, well drilled between zero and 9,000 feet deep require an initial surety of \$50,000, and a well drilled at 9,001 feet deep or more requires a \$100,000 surety.³⁸ If a drilled well becomes an operating well, the required surety for the well is twice the initial surety amount.³⁹ In lieu of furnishing separate securities for each well, an owner or operators may provide a blanket bond of \$1,000,000, which can cover up to ten wells.⁴⁰ When all drilling, exploration, and production activities have ceased and permit conditions satisfied, DEP releases the security.⁴¹

Alternatively, an applicant for a drilling, production, or injection well permit, or a permittee who intends to continue participating in long-term production activities, may meet the surety requirement by paying an annual fee to the Minerals Trust Fund based on the following amounts:

- For the first year, or part of a year, the fee is \$4,000 per permitted well.
- For each subsequent year, or part of a year, the fee is \$1,500 per permitted well.⁴²

²⁸ Coastal Petroleum Co. v. Florida Wildlife Federation, Inc., 766 So. 2d 226, 228 (Fla. 1st DCA 1999).

²⁹ Sections 377.24(9) and 377.242(1)(a)5., F.S.

³⁰ Section 377.242(1)(a)1., F.S.

³¹ Section 377.242(1)(a)2., F.S.

³² Section 377.242(1)(a)3., F.S.

³³ Section 377.242(1)(a)4., F.S.

³⁴ Section 377.2425(1), F.S.

³⁵ *Id.*

³⁶ Rule 62C-26.007(5), F.A.C.

³⁷ Rule 62C-26.002(1), F.A.C.

³⁸ Rule 62C-26.002(2), F.A.C.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Rule 62C-26.002(7), F.A.C.

⁴² Section 377.2425(1)(b), F.S.

The maximum fee that an applicant or permittee may be required to pay into the Minerals Trust Fund is \$30,000 per calendar year, regardless of the number of permits applied for or in effect.⁴³

Inspections

DEP monitors and inspects drilling operations, producing wells, or injecting wells.⁴⁴ Division staff working in the field offices inspect all permitted activities. Each permit issued by DEP must contain an agreement that the permit holder will not prevent inspection by Division personnel at any time.⁴⁵

Penalties

A person who violates any statute, rule, regulation, order, or permit of the Program 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 of the state.⁴⁶ Further, civil penalty not to exceed \$10,000 per offense may be imposed on such violators.⁴⁷ Each day during any portion of which a violation occurs constitutes a separate offense.⁴⁸ These penalties also apply to a person who refuses inspection by the Division.⁴⁹

Well Stimulation

Underground oil and gas often forms in certain rock formations resistant to conventional methods of drilling. Some of these rock formations are less permeable than traditional reservoirs of oil and gas. A traditional reservoir of oil and/or gas will be permeable enough to naturally allow the migration of oil and/or gas out of the reservoir rock. However, the decreased permeability of some reservoir rock formations traps oil and gas within the reservoir. The most common types of rock formations trapping oil and gas in this fashion are shale, sandstone, and methane coalbeds.⁵⁰ Until recently, these formations rarely produced oil or gas due to their lack of permeability. The development of horizontal drilling, combined with hydraulic fracturing, has made oil and gas production from these formations more feasible.⁵¹

Well stimulation refers to any action taken by a well operator to increase the inherent productivity of an oil or gas well.⁵² Common examples of well stimulation treatments are hydraulic fracturing and acid fracturing. Both hydraulic fracturing and acid fracturing involve the pressurized injection of fluids and chemicals to create fractures within a rock formation. The fractures then allow for more oil and gas to escape the rock formation and migrate up the well.

Hydraulic Fracturing

Hydraulic fracturing consists of using fluid and material to create or restore fractures in a rock formation to stimulate production. A hydraulic fracturing well is first drilled vertically. Then the well is drilled horizontally directly into the reservoir rock. The fracturing fluid and materials are pressurized and

⁴³ Id.

⁴⁴ Section 377.22(2)(g), F.S.

⁴⁵ Section 377.242, F.S.

⁴⁶ Section 377.37(1)(a), F.S.

⁴⁷ Id.

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ See generally Hannah Wiseman & Francis Gradijan, *Regulation of Shale Gas Development, Including Hydraulic Fracturing* (Univ. of Tulsa Legal Studies, Research Paper No. 2011-11), available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1953547.

⁵¹ Oil and Gas; Hydraulic Fracturing on Federal and Indian Lands; Final Rule, 80 Fed. Reg. 16130–16131 (proposed March 26, 2015)(to be codified at 43 C.F.R. 3160).

⁵² Keith B. Hall, *Recent Developments in Hydraulic Fracturing Regulation and Litigation*, 29 J. LAND USE & ENVTL. L. 29, 22 (2013).

released through small perforations in the well casing. The pressurized mixture causes the rock layer to fracture. The fissures are held open by the proppant to allow natural gas and oil to flow into and out of the well. Fractured rock formations may be refractured to allow for continued flow of any remaining oil and gas. This process allows for future productivity of older wells.⁵³

The composition of a fracturing fluid varies with the nature of the formation, but typically contains large amounts of water, a proppant to keep the fractures open (typically sand), and chemical additives. Each hydraulic fracturing well can require between one and seven million gallons of water. The chemical additives include a friction reducer, biocides (to kill bacteria), a scale inhibitor, surfactants, and breakers.⁵⁴ Scale inhibitors prevent the buildup of scale⁵⁵ on the drilling equipment. The breakers and friction reducer help to transport the proppants into the fracture, as well as remove them. The surfactants help control water's reaction with other fluids (in this case, oil and/or gas). A typical fracture treatment will use between three and 12 additive chemicals depending on the characteristics of the water and the shale formation being fractured; most often, either 10 or 11 are used. These chemicals are selected from a list of over 250 chemicals.⁵⁶ The chemicals typically make up between 1 percent and 2 percent of the hydraulic fracturing fluid, by weight.⁵⁷

Acid Fracturing

Acid fracturing, also known as acidizing, is most often used in limestone formations and other carbonate formations because the permeability of limestone varies and is too complex for conventional hydraulic fracturing. Carbonate formations can be dissolved by acid. Acid fracturing is similar to hydraulic fracturing with some differences. A fluid is still injected at fracturing pressures, but it also includes a diluted acid, either hydrochloric acid or formic acid, to "etch" channels into the rock formation. The channels created through the rock formation can either let oil and gas escape as is, or can also be propped open with sand, as with hydraulic fracturing. "The effective fracture length is a function of the type of acid used, the acid reaction rate, and the fluid loss from the fracture into the formation."⁵⁸

Well Stimulation in Florida

DEP's rules currently require an operator to notify DEP before beginning any workover operation on an oil or gas well.⁵⁹ A workover is defined as "an operation involving a deepening, plug back, repair, cement squeeze, perforation, hydraulic fracturing, acidizing, or other chemical treatment which is performed in a production, disposal, or injection well in order to restore, sustain, or increase production, disposal, or injection rates."⁶⁰ Thus, an operator performing a well stimulation need not apply for a separate permit authorizing the well stimulation, but must only provide notification to DEP before beginning the operation.

Both hydraulic fracturing and acid fracturing have been utilized in Florida. According to DEP, the last hydraulic fracturing on record was conducted in the Jay Field in 2003.⁶¹ Acid fracturing was used for

⁵³ See generally Wiseman & Francis Gradijan.

⁵⁴ Id.

⁵⁵ "Scale" is inorganic soluble salts that form when incompatible types of water are mixed. Scale buildup can cause costly damage to equipment parts.

⁵⁶ For a list of the chemicals most often used, see *What Chemicals Are Used*, FRAC FOCUS, <https://fracfocus.org/chemical-use/what-chemicals-are-used> (last visited October 28, 2015).

⁵⁷ 80 Fed. Reg. 16131.

⁵⁸ The Society of Petroleum Engineers, *Continuous Improvements in Acid Fracturing at Lake Maracaibo*, J. Petroleum Tech. 54 (2006), available at http://www.slb.com/~media/Files/stimulation/industry_articles/200607_cont_imp.pdf.

⁵⁹ Rule 62C-29.006(1), F.A.C.

⁶⁰ Rule 62C-25.002(61), F.A.C.

⁶¹ DEP, *Frequent Questions about the Oil and Gas Permitting Process*, available at http://www.dep.state.fl.us/water/mines/oil_gas/docs/faq_og.pdf, (last visited September 16, 2015).

the first time in Florida in Collier County in 2013, but the operation was halted by a cease and desist order from DEP based on concerns about groundwater contamination.⁶²

Disclosure of Well Stimulation Chemicals

In March 2015, the Bureau of Land Management (BLM), part of the U.S. Department of the Interior, published its final rule that requires disclosures about chemicals used in hydraulic fracturing on federal and Indian lands.⁶³ After hydraulic fracturing is complete, BLM requires the driller to provide a description of the base fluid and each additive in the hydraulic fracturing fluid.⁶⁴ Some commenters on the rule requested that BLM only require disclosure of chemicals required for disclosure on Manage Materials Safety Data Sheets.⁶⁵ However, BLM determined that other chemicals used during hydraulic fracturing might be harmful to humans in an environmental setting, and therefore, disclosure would be required.⁶⁶ BLM does not require chemical disclosure prior to drilling because operators often change chemical composition after permit approval in response to chemical availability, change in vendor, and unexpected geological conditions.⁶⁷ Operators may request that chemical information not be disclosed to the public.⁶⁸ These companies have traditionally kept the chemical composition confidential to preserve a competitive advantage.⁶⁹

Wyoming and several other states challenged BLM's rule stating the agency lacked the power to regulate the activity.⁷⁰ A federal judge issued a preliminary injunction barring implementation of the rule and the case is currently awaiting resolution.⁷¹

Of the states that produce oil, natural gas, or both, at least 15 require some disclosure of information about the chemicals added to the hydraulic fracturing fluid used to stimulate a particular well.⁷² These provisions vary widely, but generally indicate: (1) which parties must disclose information about chemical additives and whether these disclosures must be made to the public or a state agency; (2) what information about chemicals added to a hydraulic fracturing fluid must be disclosed, including how specifically parties must describe the chemical makeup of the hydraulic fracturing fluid and the additives that are combined with it; (3) what protections, if any, will be given to trade secrets; and (4) at what time disclosure must be made in relation to when fracturing takes place.⁷³

Local Regulation of Oil and Gas Production

In certain instances, DEP may not issue a permit without specified approval. DEP may not issue permits to drill a gas or oil well:

- Within the corporate limits of a municipality without a resolution approving the permit from the governing authority.⁷⁴

⁶² DEP, *Collier Oil Drilling*, http://www.dep.state.fl.us/secretary/oil/collier_oil.htm (last visited September 16, 2015).

⁶³ 80 Fed. Reg. 16128; *See also* Bureau of Land Management, *Interior Department Releases Final Rule to Support Safe, Responsible Hydraulic Fracturing Activities on Public and Tribal Lands*,

http://www.blm.gov/wo/st/en/info/newsroom/2015/march/nr_03_20_2015.html, (last visited September 16, 2015).

⁶⁴ 80 Fed. Reg. 16220.

⁶⁵ 80 Fed. Reg. 16170.

⁶⁶ *Id.*

⁶⁷ 80 Fed. Reg. 16149.

⁶⁸ 80 Fed. Reg. 16221.

⁶⁹ 29 J. Land Use & Envtl. L. at 35.

⁷⁰ Casper Star Tribune, Benjamin Storrow, *Federal judge issues stay on BLM fracking rule*, http://trib.com/business/energy/federal-judge-issues-stay-on-blm-fracking-rule/article_7e14957f-11d9-5120-b1d9-e86bf382bb1c.html (last visited September 15, 2015).

⁷¹ *Id.* *See also* Amy Harder Wall Street Journal, *Federal Court Blocks Obama Administration Fracking Rule*, <http://www.wsj.com/articles/federal-court-blocks-obama-administration-hydraulic-fracturing-rule-1443641565> (last visited September 30, 2015).

⁷² Brandon J. Murrill and Adam Vann, *Hydraulic Fracturing: Chemical Disclosure Requirements*, Congressional Research Service (June 19, 2012), available at <http://fas.org/sgp/crs/misc/R42461.pdf> (last visited September 16, 2015).

⁷³ *Id.*

⁷⁴ Section 377.24(5), F.S.

- In tidal waters abutting or immediately adjacent to the corporate limits of a municipality or within 3 miles of such corporate limits extending from the line of mean high tide into such waters without a resolution approving the permit from the governing authority;⁷⁵ or
- On any improved beach, located outside of an incorporated town or municipality, or at a location in the tidal waters abutting or immediately adjacent to an improved beach, or within 3 miles of an improved beach extending from the line of mean high tide into such tidal waters without a resolution approving the permit from the county commission.⁷⁶

If the proposed oil or gas well is on lands owned by the Board of Trustees of the Internal Improvement Trust Fund (BOT), it may not grant a lease for gas, oil, or mineral rights:

- Within the corporate limits of a municipality without a resolution approving the lease from the governing authority;⁷⁷
- In tidal waters abutting or immediately adjacent to the corporate limits of a municipality or within 3 miles of such corporate limits extending from the line of mean high tide into such waters without a resolution approving the lease from the governing authority;⁷⁸
- On any improved beach, located outside of an incorporated town or municipality, or at a location in the tidal waters abutting or immediately adjacent to an improved beach, or within 3 miles of an improved beach extending from the line of mean high tide into such tidal waters without a resolution approving the lease from the county commission;⁷⁹ or
- In Florida's territorial waters in the Gulf of Mexico or Atlantic Ocean.⁸⁰

According to DEP, no counties or municipalities currently operate oil and gas permitting programs. However, some municipalities have banned hydraulic fracturing in their jurisdictions.⁸¹

Effect of Proposed Changes

State Preemption

The bill amends s. 377.06, F.S., to preempt counties, municipalities, or other political subdivisions from regulating any activity related to oil and gas exploration, development, production, processing, storage, and transportation. Further, the bill voids any county, municipality, or other political subdivision's ordinance or regulation related to oil and gas exploration, development, production, processing, storage, and transportation. Counties and municipalities may, however, enforce zoning ordinances adopted before January 1, 2015.

Permits for Oil and Gas Exploring, Drilling, and Extracting

The bill adds s. 377.241(6), F.S., to require the Division, when determining whether to issue a permit for activities related to oil and gas, to consider the history of past adjudicated violations committed by the applicant or an affiliated entity of any substantive and material rule or law pertaining to the regulation of oil or gas, including violations that occurred outside the state. This information may be used as a basis for permit denial or imposition of specific permit conditions, including increased monitoring, or increasing the amount of the required surety to up to five times the standard amount. The bill amends s. 377.22(2), F.S., to authorize DEP to adopt rules to implement this requirement.

⁷⁵ Section 377.24(6), F.S.

⁷⁶ Section 377.24(7), F.S.

⁷⁷ Section 253.61(1)(a), F.S.

⁷⁸ Section 253.61(1)(b), F.S.

⁷⁹ Section 253.61(1)(c), F.S.

⁸⁰ Section 253.61(1)(d), F.S.

⁸¹ Bonita Springs: <http://www.news-press.com/story/news/local/bonita-springs/2015/07/15/crowd-cramps-bonita-city-hall-ahead-of-fracking-vote/30182897/> (last visited September 18, 2015).

Further, the bill amends s. 377.24(1), F.S., to empower DEP, when issuing a permit for activities related to oil and gas drilling and extracting, to authorize multiple activities in a single permit.

Inspections

The bill amends s. 377.22(2)(g), F.S., to require DEP's rules and orders to require inspections during the testing of blowout preventers, during the pressure testing of the casing and casing shoe, and during the integrity testing of the cement plugs in plugging and abandonment operations. The bill amends s. 377.242, F.S., to require each permit to contain an agreement that the permit holder will not prevent inspections during these activities.

High-Pressure Well Stimulation Permits

The bill amends s. 377.24, F.S., to specifically authorize DEP to issue permits for performance of a high-pressure well stimulation. The bill requires DEP to issue orders and adopt rules to implement the permitting requirements for high-pressure well stimulations and to ensure that all precautions are taken to prevent the spillage of oil or any other pollutant during these operations.

The bill amends s. 377.19, F.S., to define "high-pressure well stimulation" as a well intervention performed by injecting fluids into a rock formation at high pressure that exceeds the fracture gradient of the rock formation to propagate fractures in such formation to increase production at an oil or gas well by improving the flow of hydrocarbons from the formation into the wellbore. The term does not include well stimulation or conventional workover procedures that may incidentally fracture the formation near the wellbore.

The bill amends s. 377.24, F.S., to impose on high-pressure well stimulations the same permitting requirements that apply to drilling an oil or gas well. Thus, a person who would like to perform a high-pressure well stimulation must first apply for and obtain a permit from DEP that authorizes the activity and must also pay a fee not to exceed the actual cost of processing and inspecting for each well. While the permitting criteria for all oil and gas permits will now apply to high-pressure well stimulation permits, the bill also creates additional criteria applicable to permits for high-pressure well stimulation.

Specifically, the bill amends s. 377.241, F.S., to direct the Division, when issuing a permit, to consider whether the high-pressure well stimulation is designed to ensure that:

- The groundwater through which the well will be or has been drilled is not contaminated by the high-pressure well stimulation; and
- The high-pressure well stimulation is consistent with the public policy of the state.

The bill also amends s. 377.2425, F.S., to require that high-pressure well stimulation permit applicants or operators provide surety to DEP that the activity will be conducted in a safe and environmentally compatible manner before DEP may grant a permit. The surety requirement for high-pressure well stimulation is the same as the surety required for other oil and gas permits.

The bill prohibits DEP from issuing permits for high-pressure well stimulation until rules for high-pressure well stimulation are adopted.

Study on High-Pressure Well Stimulation

The bill creates s. 377.2436, F.S., to require DEP to conduct a study on high-pressure well stimulation that:

- Evaluates the underlying geologic features present in the counties where oil wells have been permitted and analyzes the potential impact that high-pressure well stimulation and wellbore construction may have on the underlying geologic features;
- Evaluates the potential hazards and risks that high-pressure well stimulation poses to surface water or groundwater resources, including an assessment of the potential impacts on drinking water resources, identification of the main factors affecting the severity and frequency of

impacts, and an analysis of the potential for the use or reuse of recycled water in well stimulation fluids while meeting appropriate water quality standards;

- Reviews and evaluates the potential for groundwater contamination from conducting high-pressure well stimulation under wells that have been previously abandoned and plugged and identifies a setback radius from previously plugged and abandoned wells that could be impacted by high-pressure well stimulation; and
- Reviews and evaluates the ultimate disposition of well stimulation fluids after use in well stimulation processes.

The bill specifies that DEP must continue conventional oil and gas business operations during the performance of the study and prohibits a moratorium on the evaluation and issuance of permits for conventional drilling, exploration, conventional completions, or conventional workovers during the study. The bill provides that the study is subject to independent scientific peer review.

The bill requires the findings of the study to be posted on DEP's website and submitted to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2017.

The bill appropriates \$1 million in nonrecurring funds from the General Revenue Fund to DEP for the purpose of performing the study.

High-Pressure Well Stimulation Chemical Disclosure Registry

The bill creates s. 377.45, F.S., to require DEP to designate the national chemical registry, known as FracFocus, as the state's registry for chemical disclosure for all wells on which high-pressure well stimulations are performed. DEP must provide a link to FracFocus on its website. The bill requires a service provider, vendor, or well owner or operator to report to DEP, at a minimum, the following information:

- The name of the service provider, vendor, or well owner or operator;
- The date of completion of the high-pressure well stimulation;
- The county in which the well is located;
- The API (American Petroleum Institute) number for the well;
- The well name and number;
- The longitude and latitude of the wellhead;
- The total vertical depth of the well;
- The total volume of water used in the high-pressure well stimulation;
- Each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2)⁸² and the ingredient concentration in the high-pressure well stimulation fluid by mass for each well on which a high-pressure well stimulation is performed; and
- The trade or common name and the CAS registry number for each chemical ingredient.

DEP must report the information listed above to FracFocus, excluding any information subject to ch. 688, F.S., which relates to trade secrets. If FracFocus cannot accept and make publicly available any of the required information, the bill requires DEP to post the information on its website, excluding any information subject to ch. 688, F.S., which relates to trade secrets.

The bill requires a service provider, vendor, or well owner or operator to report the required information to DEP within 60 days after the initiation of the high-pressure well stimulation for each well on which it is performed. The service provider, vendor, or well owner or operator is also required to notify DEP if any chemical ingredient not previously reported is intentionally included and used for the purpose of performing a high-pressure well stimulation.

⁸² 29 C.F.R. s. 1910.1200(g)(2) specifies the information that must be included in reports that chemical manufacturers and importers are required to prepare for the purpose of alerting employers and employees to chemical hazards in the workplace. These are called Material Safety Data Sheets.

The bill specifies that the chemical disclosure requirements do not apply to an ingredient that is not intentionally added to the high-pressure well stimulation or that occurs incidentally or is otherwise unintentionally present in a high-pressure well stimulation.

The bill requires DEP to adopt rules to implement the chemical disclosure requirements.

Local Regulation of Oil and Gas Production

The bill removes subsection (5) from s. 377.24, F.S., which prohibits DEP from issuing permits within the corporate limits of a municipality without a resolution approving the permit from the governing authority.

Penalties

The bill amends s. 377.37, F.S., to increase the maximum civil penalty that may be imposed on a person who violates any provision of ch. 377, F.S., or any rule, regulation, or order of the Division made under the chapter or who violates the terms of an oil or gas permit from \$10,000 to \$25,000 per offense. Each day during any portion of which a violation occurs constitutes a separate offense.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 377.06, F.S., preempting the regulation of all matters relating to the exploration, development, production, processing, storage, and transportation of oil and gas.
- Section 2.** Amends s. 377.19, F.S., relating to definitions used in ch. 377, F.S.
- Section 3.** Amends s. 377.22, F.S., revising the rulemaking authority of DEP.
- Section 4.** Amends s. 377.24, F.S., relating to oil and gas well drilling permits.
- Section 5.** Amends s. 377.241, F.S., relating to criteria for issuance of permits.
- Section 6.** Amends s. 377.242, F.S., relating to permits for oil and gas drilling, exploration, and extraction.
- Section 7.** Amends s. 377.2425, F.S., relating to providing a surety for oil and gas production.
- Section 8.** Creates s. 377.2436, F.S., relating to a study on high-pressure well stimulation.
- Section 9.** Amends s. 377.37, F.S., relating to penalties for oil and gas for oil and gas law violations.
- Section 10.** Creates s. 377.45, F.S., relating to disclosure of high-pressure well stimulation chemicals.
- Section 11.** Amends s. 377.07, F.S., conforming provisions to changes made by the act.
- Section 12.** Amends s. 377.10, F.S., conforming provisions to changes made by the act.
- Section 13.** Amends s. 377.243, F.S., conforming provisions to changes made by the act.
- Section 14.** Amends s. 377.244, F.S., conforming provisions to changes made by the act.
- Section 15.** Provides an appropriation.

Section 16. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on the state because it requires oil and gas well operators to pay a permit fee before performing a high-pressure well stimulation and provide financial surety that performance will be conducted in a safe and environmentally compatible manner. Options of surety include cash deposit to the Minerals Trust Fund, a surety bond or an irrevocable letter of credit in an amount as provided by rule and guaranteed by an acceptable financial institution. According to DEP, the total fiscal impact of the permit fees and surety requirement is indeterminate at this time since the permit fee would be established during the rulemaking process and it is unknown how many permits would be sought for high pressure well stimulations.⁸³

The bill may also have an indeterminate positive fiscal impact on the state because it raises the maximum fine that may be imposed for violation of any oil and gas law, rule, regulation, or order from \$10,000 to \$25,000 per offense, which would also be deposited in the Minerals Trust Fund. According to DEP, the fiscal impact from the increase in penalties is indeterminate because it is unknown how many violations triggering the payment of fines would occur in the future.⁸⁴

2. Expenditures:

The bill has a significant negative fiscal impact on the state because it requires DEP to conduct a study on the potential effects of performing high-pressure well stimulations. According to DEP, this study will cost approximately \$1 million.⁸⁵ The bill provides \$1 million to DEP in nonrecurring funds from the General Revenue Fund for the purpose of performing the study.

According to DEP, the cost of rulemaking can be absorbed within the existing department's budget.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See CONSTITUTIONAL ISSUES: Applicability of Municipality/County Mandates Provision.

2. Expenditures:

See CONSTITUTIONAL ISSUES: Applicability of Municipality/County Mandates Provision.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on the private sector because it requires oil and gas well operators to pay a permit fee (to be determined by DEP), associated permit application preparation costs, and provide financial surety before performing a high-pressure well stimulation.

⁸³ Email from Amanda Marsh, Legislative Specialist, Department of Environmental Protection, Fwd: HB 191 Analysis (Nov. 25, 2015).

⁸⁴ *Id.*

⁸⁵ According to an email from DEP staff received on March 23, 2015.

The bill may also have an indeterminate negative fiscal impact on the private sector because it raises the maximum fine that may be imposed for violation of any oil and gas law, rule, regulation, or order from \$10,000 to \$25,000 per offense.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18(b) of the Florida Constitution may apply because the bill may reduce the authority of counties and municipalities to raise total aggregate revenues as such authority existed on February 1, 1989, by prohibiting them from adopting or establishing programs to issue permits for any activity related to oil and gas drilling, exploration, or production for which DEP has permitting authority. According to DEP, no counties or municipalities currently operate such permitting programs. Therefore, an exemption to the mandates provision may apply because the fiscal impact of the reduced authority is likely insignificant.

An exception to the mandates provision may also apply because the bill applies to all persons similarly situated. However, the Legislature would have to make a formal determination that the bill fulfills an important state interest.

If the exemption and exception do not apply and the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt rules to implement the permitting requirements for high-pressure well stimulations and to ensure that all precautions are taken to prevent the spillage of oil or any other pollutant during these operations. DEP may not issue permits for high-pressure well stimulation until it adopts rules for high-pressure well stimulation. The bill also requires DEP to adopt rules to evaluate previous violations of permit applicants, conduct specific inspection activities, require reports for high-pressure well stimulations, and require chemical disclosure to FracFocus for high-pressure well stimulations.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
2 An act relating to the regulation of oil and gas
3 resources; amending s. 377.06, F.S.; preempting the
4 regulation of all matters relating to the exploration,
5 development, production, processing, storage, and
6 transportation of oil and gas; declaring existing
7 ordinances and regulations relating thereto void;
8 providing an exception for certain zoning ordinances;
9 amending s. 377.19, F.S.; applying the definitions of
10 certain terms to additional sections of chapter 377,
11 F.S.; revising the definition of the term "division";
12 conforming a cross-reference; defining the term "high-
13 pressure well stimulation"; amending s. 377.22, F.S.;
14 revising the rulemaking authority of the Department of
15 Environmental Protection; amending s. 377.24, F.S.;
16 requiring that a permit be obtained before the
17 performance of a high-pressure well stimulation;
18 specifying that a permit may authorize single or
19 multiple activities; deleting provisions prohibiting
20 the division from granting permits to drill gas or oil
21 wells within the limits of a municipality without
22 approval of the governing authority of the
23 municipality; prohibiting the department from
24 approving permits for high-pressure well stimulation
25 until certain rules are adopted; amending s. 377.241,
26 F.S.; requiring the Division of Water Resource

27 Management to give consideration to and be guided by
28 certain additional criteria when issuing permits;
29 amending s. 377.242, F.S.; authorizing the department
30 to issue permits for the performance of a high-
31 pressure well stimulation; revising permit
32 requirements that permitholders agree not to prevent
33 division inspections; amending s. 377.2425, F.S.;
34 requiring an applicant or operator to provide surety
35 that performance of a high-pressure well stimulation
36 will be conducted in a safe and environmentally
37 compatible manner; creating s. 377.2436, F.S.;
38 directing the department to conduct a study on high-
39 pressure well stimulation; providing study criteria;
40 requiring the study to be submitted to the Governor
41 and Legislature; amending s. 377.37, F.S.; increasing
42 the maximum amount of a civil penalty; creating s.
43 377.45, F.S.; requiring the department to designate
44 the national chemical registry as the state's
45 registry; requiring service providers, vendors, and
46 well owners or operators to report certain information
47 to the department; requiring the department to report
48 certain information to the national chemical registry;
49 providing applicability; requiring the department to
50 adopt rules; amending ss. 377.07, 377.10, 377.243, and
51 377.244, F.S.; conforming provisions; providing an
52 appropriation; providing an effective date.

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

Section 1. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas; preemption.—

(1) It is ~~hereby declared~~ the public policy of this state to conserve and control the natural resources of oil and gas in this state, and the products made from oil and gas in this state, + ~~to~~ prevent waste of natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the natural resources lie, ~~of~~ the owners and producers of oil and gas resources and the products made from oil and gas, and ~~of~~ others interested in these resources and products; and to safeguard the health, property, and public welfare of the residents of this state and other interested persons ~~and for all purposes indicated by the provisions in this section.~~

(2) ~~Further,~~ It is the public policy of this state ~~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

79 | of peak demand. It is not the intention of this section to
 80 | limit, restrict, or modify in any way the provisions of this
 81 | law.

82 | (3) The Legislature declares that all matters relating to
 83 | the regulation of the exploration, development, production,
 84 | processing, storage, and transportation of oil and gas are
 85 | preempted to the state, to the exclusion of all existing and
 86 | future ordinances or regulations relating thereto adopted by any
 87 | county, municipality, or other political subdivision of the
 88 | state. Any such existing ordinance or regulation is void. A
 89 | county or municipality may, however, enforce an existing zoning
 90 | ordinance adopted before January 1, 2015, if the ordinance is
 91 | otherwise valid.

92 | Section 2. Section 377.19, Florida Statutes, is amended to
 93 | read:

94 | 377.19 Definitions.—As used in ss. 377.06, 377.07, and
 95 | 377.10-377.45 ~~377.10-377.40~~, the term:

96 | (1) "Completion date" means the day, month, and year that
 97 | a new productive well, a previously shut-in well, or a
 98 | temporarily abandoned well is completed, repaired, or
 99 | recompleted and the operator begins producing oil or gas in
 100 | commercial quantities.

101 | (2) "Department" means the Department of Environmental
 102 | Protection.

103 | (3) "Division" means the Division of Water Resource
 104 | Management of the Department of Environmental Protection.

105 (4) "Field" means the general area that is underlaid, or
106 appears to be underlaid, by at least one pool. The term includes
107 the underground reservoir, or reservoirs, containing oil or gas,
108 or both. The terms "field" and "pool" mean the same thing if
109 only one underground reservoir is involved; however, the term
110 "field," unlike the term "pool," may relate to two or more
111 pools.

112 (5) "Gas" means all natural gas, including casinghead gas,
113 and all other hydrocarbons not defined as oil in subsection (16)
114 ~~(15)~~.

115 (6) "High-pressure well stimulation" means all stages of a
116 well intervention performed by injecting fluids into a rock
117 formation at high pressure that exceeds the fracture gradient of
118 the rock formation in order to propagate fractures in such
119 formation to increase production at an oil or gas well by
120 improving the flow of hydrocarbons from the formation into the
121 wellbore. The term does not include well stimulation or
122 conventional workover procedures that may incidentally fracture
123 the formation near the wellbore.

124 ~~(7)(6)~~ "Horizontal well" means a well completed with the
125 wellbore in a horizontal or nearly horizontal orientation within
126 10 degrees of horizontal within the producing formation.

127 ~~(8)(7)~~ "Illegal gas" means gas that has been produced
128 within the state from any well or wells in excess of the amount
129 allowed by any rule, regulation, or order of the division, as
130 distinguished from gas produced within the State of Florida from

131 a well not producing in excess of the amount so allowed, which
 132 is "legal gas."

133 (9)~~(8)~~ "Illegal oil" means oil that has been produced
 134 within the state from any well or wells in excess of the amount
 135 allowed by rule, regulation, or order of the division, as
 136 distinguished from oil produced within the state from a well not
 137 producing in excess of the amount so allowed, which is "legal
 138 oil."

139 (10)~~(9)~~ "Illegal product" means a product of oil or gas,
 140 any part of which was processed or derived, in whole or in part,
 141 from illegal gas or illegal oil or from any product thereof, as
 142 distinguished from "legal product," which is a product processed
 143 or derived to no extent from illegal oil or illegal gas.

144 (11)~~(10)~~ "Lateral storage reservoir boundary" means the
 145 projection up to the land surface of the maximum horizontal
 146 extent of the gas volume contained in a natural gas storage
 147 reservoir.

148 (12)~~(11)~~ "Native gas" means gas that occurs naturally
 149 within this state and does not include gas produced outside the
 150 state, transported to this state, and injected into a permitted
 151 natural gas storage facility.

152 (13)~~(12)~~ "Natural gas storage facility" means an
 153 underground reservoir from which oil or gas has previously been
 154 produced and which is used or to be used for the underground
 155 storage of natural gas, and any surface or subsurface structure,
 156 or infrastructure, except wells. The term also includes a right

157 or appurtenance necessary or useful in the operation of the
158 facility for the underground storage of natural gas, including
159 any necessary or reasonable reservoir protective area as
160 designated for the purpose of ensuring the safe operation of the
161 storage of natural gas or protecting the natural gas storage
162 facility from pollution, invasion, escape, or migration of gas,
163 or any subsequent extension thereof. The term does not mean a
164 transmission, distribution, or gathering pipeline or system that
165 is not used primarily as integral piping for a natural gas
166 storage facility.

167 (14)~~(13)~~ "Natural gas storage reservoir" means a pool or
168 field from which gas or oil has previously been produced and
169 which is suitable for or capable of being made suitable for the
170 injection, storage, and recovery of gas, as identified in a
171 permit application submitted to the department under s.
172 377.2407.

173 (15)~~(14)~~ "New field well" means an oil or gas well
174 completed after July 1, 1997, in a new field as designated by
175 the Department of Environmental Protection.

176 (16)~~(15)~~ "Oil" means crude petroleum oil and other
177 hydrocarbons, regardless of gravity, which are produced at the
178 well in liquid form by ordinary production methods, and which
179 are not the result of condensation of gas after it leaves the
180 reservoir.

181 (17)~~(16)~~ "Oil and gas" has the same meaning as the term
182 "oil or gas."

183 (18)~~(17)~~ "Oil and gas administrator" means the State
184 Geologist.

185 (19)~~(18)~~ "Operator" means the entity who:

186 (a) Has the right to drill and to produce a well; or
187 (b) As part of a natural gas storage facility, injects, or
188 is engaged in the work of preparing to inject, gas into a
189 natural gas storage reservoir; or stores gas in, or removes gas
190 from, a natural gas storage reservoir.

191 (20)~~(19)~~ "Owner" means the person who has the right to
192 drill into and to produce from any pool and to appropriate the
193 production for the person or for the person and another, or
194 others.

195 (21)~~(20)~~ "Person" means a natural person, corporation,
196 association, partnership, receiver, trustee, guardian, executor,
197 administrator, fiduciary, or representative of any kind.

198 (22)~~(21)~~ "Pool" means an underground reservoir containing
199 or appearing to contain a common accumulation of oil or gas or
200 both. Each zone of a general structure which is completely
201 separated from any other zone on the structure is considered a
202 separate pool as used herein.

203 (23)~~(22)~~ "Producer" means the owner or operator of a well
204 or wells capable of producing oil or gas, or both.

205 (24)~~(23)~~ "Product" means a commodity made from oil or gas
206 and includes refined crude oil, crude tops, topped crude,
207 processed crude petroleum, residue from crude petroleum,
208 cracking stock, uncracked fuel oil, fuel oil, treated crude oil,

209 residuum, gas oil, casinghead gasoline, natural gas gasoline,
 210 naphtha, distillate, condensate, gasoline, waste oil, kerosene,
 211 benzine, wash oil, blended gasoline, lubricating oil, blends or
 212 mixtures of oil with one or more liquid products or byproducts
 213 derived from oil or gas, and blends or mixtures of two or more
 214 liquid products or byproducts derived from oil or gas, whether
 215 hereinabove enumerated or not.

216 (25)~~(24)~~ "Reasonable market demand" means the amount of
 217 oil reasonably needed for current consumption, together with a
 218 reasonable amount of oil for storage and working stocks.

219 (26)~~(25)~~ "Reservoir protective area" means the area
 220 extending up to and including 2,000 feet surrounding a natural
 221 gas storage reservoir.

222 (27)~~(26)~~ "Shut-in bottom hole pressure" means the pressure
 223 at the bottom of a well when all valves are closed and no oil or
 224 gas has been allowed to escape for at least 24 hours.

225 (28)~~(27)~~ "Shut-in well" means an oil or gas well that has
 226 been taken out of service for economic reasons or mechanical
 227 repairs.

228 (29)~~(28)~~ "State" means the State of Florida.

229 (30)~~(29)~~ "Temporarily abandoned well" means a permitted
 230 well or wellbore that has been abandoned by plugging in a manner
 231 that allows reentry and redevelopment in accordance with oil or
 232 gas rules of the Department of Environmental Protection.

233 (31)~~(30)~~ "Tender" means a permit or certificate of
 234 clearance for the transportation or the delivery of oil, gas, or

235 products, approved and issued or registered under the authority
 236 of the division.

237 (32)~~(31)~~ "Waste," in addition to its ordinary meaning,
 238 means "physical waste" as that term is generally understood in
 239 the oil and gas industry. The term "waste" includes:

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

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

251 (c) The producing of oil or gas in a manner that causes
 252 unnecessary water channeling or coning.

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

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

257 (f) The underground waste, however caused and whether or
 258 not defined.

259 (g) The creation of unnecessary fire hazards.

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

261 both oil and gas, of gas in excess of the amount that is
 262 necessary in the efficient drilling or operation of the well.

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

264 (j) Permitting gas produced from a gas well to escape into
 265 the air.

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

270 (33)~~(32)~~ "Well site" means the general area around a well,
 271 which area has been disturbed from its natural or existing
 272 condition, as well as the drilling or production pad, mud and
 273 water circulation pits, and other operation areas necessary to
 274 drill for or produce oil or gas, or to inject gas into and
 275 recover gas from a natural gas storage facility.

276 Section 3. Subsection (2) of section 377.22, Florida
 277 Statutes, is amended to read:

278 377.22 Rules and orders.—

279 (2) The department shall issue orders and adopt rules
 280 pursuant to ss. 120.536 and 120.54 to implement and enforce ~~the~~
 281 ~~provisions of~~ this chapter. Such rules and orders shall ensure
 282 that all precautions are taken to prevent the spillage of oil or
 283 any other pollutant in all phases of the drilling for, and
 284 extracting of, oil, gas, or other petroleum products, including
 285 high-pressure well stimulations, or during the injection of gas
 286 into and recovery of gas from a natural gas storage reservoir.

287 The department shall revise such rules from time to time as
 288 necessary for the proper administration and enforcement of this
 289 chapter. Rules adopted and orders issued in accordance with this
 290 section are for, but not limited to, the following purposes:

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

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

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

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

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

309 (f) To require a reasonable bond, or other form of
 310 security acceptable to the department, conditioned upon properly
 311 drilling, casing, producing, and operating each well, and
 312 properly plugging ~~the performance of the duty to plug properly~~

313 | each dry and abandoned well and the full and complete
314 | restoration by the applicant of the area over which geophysical
315 | exploration, drilling, or production is conducted to the similar
316 | contour and general condition in existence before ~~prior to~~ such
317 | operation.

318 | (g) To require and carry out a reasonable program of
319 | monitoring and inspecting ~~or inspection of~~ all drilling
320 | operations, high-pressure well stimulations, producing wells, ~~or~~
321 | injecting wells, and well sites, including regular inspections
322 | by division personnel. Inspections will be required during the
323 | testing of blowout preventers, during the pressure testing of
324 | the casing and casing shoe, and during the integrity testing of
325 | the cement plugs in plugging and abandonment operations.

326 | (h) To require the making of reports showing the location
327 | of all oil and gas wells; the making and filing of logs; the
328 | taking and filing of directional surveys; the filing of
329 | electrical, sonic, radioactive, and mechanical logs of oil and
330 | gas wells; if taken, the saving of cutting and cores, the cuts
331 | of which shall be given to the Bureau of Geology; and the making
332 | of reports with respect to drilling and production records.
333 | However, such information, or any part thereof, at the request
334 | of the operator, shall be exempt from ~~the provisions of~~ s.
335 | 119.07(1) and held confidential by the division for ~~a period of~~
336 | 1 year after the completion of a well.

337 | (i) To prevent wells from being drilled, operated, or
338 | produced in such a manner as to cause injury to neighboring

339 leases, property, or natural gas storage reservoirs.

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

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

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

350 (m) To prevent fires.

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

354 (o) To regulate the "shooting," perforating, ~~and~~ chemical
 355 treatment, and high-pressure stimulations of wells.

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

359 (q) To regulate gas cycling operations.

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

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

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

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

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

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

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

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

382 (z) To evaluate the history of past adjudicated violations
383 committed by permit applicants or the applicants' affiliated
384 entities of any substantive and material rule or law pertaining
385 to the regulation of oil or gas.

386 Section 4. Subsections (6) through (9) of section 377.24,
387 Florida Statutes, are renumbered as subsections (5) through (8),
388 respectively, present subsections (1), (2), (4), and (5) are
389 amended, and a new subsection (9) is added to that section, to
390 read:

391 377.24 Notice of intention to drill well; permits;
 392 abandoned wells and dry holes.—

393 (1) Before drilling a well in search of oil or gas, before
 394 performing a high-pressure well stimulation, or before storing
 395 gas in or recovering gas from a natural gas storage reservoir,
 396 the person who desires to drill for, store, or recover gas, ~~or~~
 397 drill for oil or gas, or perform a high-pressure well
 398 stimulation shall notify the division upon such form as it may
 399 prescribe and shall pay a reasonable fee set by rule of the
 400 department not to exceed the actual cost of processing and
 401 inspecting for each well or reservoir. The drilling of any well,
 402 the performance of any high-pressure well stimulation, and the
 403 storing and recovering of gas are prohibited until such notice
 404 is given, the fee is paid, and a ~~the~~ permit is granted. A permit
 405 may authorize a single activity or multiple activities.

406 (2) An application for the drilling of a well in search of
 407 oil or gas, for the performance of a high-pressure well
 408 stimulation, or for the storing of gas in and recovering of gas
 409 from a natural gas storage reservoir~~7~~ in this state must include
 410 the address of the residence of the applicant~~7~~ or applicants,
 411 which must be the address of each person involved in accordance
 412 with the records of the Division of Water Resource Management
 413 until such address is changed on the records of the division
 414 after written request.

415 (4) Application for permission to drill or abandon any
 416 well or perform a high-pressure well stimulation may be denied

417 by the division for only just and lawful cause.

418 ~~(5) No permit to drill a gas or oil well shall be granted~~
 419 ~~within the corporate limits of any municipality, unless the~~
 420 ~~governing authority of the municipality shall have first duly~~
 421 ~~approved the application for such permit by resolution.~~

422 (9) The department may not approve a permit to authorize a
 423 high-pressure well stimulation until rules for high-pressure
 424 well stimulation are adopted.

425 Section 5. Subsections (5) and (6) are added to section
 426 377.241, Florida Statutes, to read:

427 377.241 Criteria for issuance of permits.—The division, in
 428 the exercise of its authority to issue permits as hereinafter
 429 provided, shall give consideration to and be guided by the
 430 following criteria:

431 (5) For high-pressure well stimulations, whether the high-
 432 pressure well stimulation as proposed is designed to ensure
 433 that:

434 (a) The groundwater through which the well will be or has
 435 been drilled is not contaminated by the high-pressure well
 436 stimulation; and

437 (b) The high-pressure well stimulation is consistent with
 438 the public policy of this state as specified in s. 377.06.

439 (6) As a basis for permit denial or imposition of specific
 440 permit conditions, including increased bonding up to five times
 441 the applicable limits and increased monitoring, the history of
 442 past adjudicated violations committed by the applicant or an

443 affiliated entity of the applicant of any substantive and
 444 material rule or law pertaining to the regulation of oil or gas,
 445 including violations that occurred outside the state.

446 Section 6. Section 377.242, Florida Statutes, is amended
 447 to read:

448 377.242 Permits for drilling or exploring and extracting
 449 through well holes or by other means.—The department is vested
 450 with the power and authority:

451 (1)(a) To issue permits for the performance of a high-
 452 pressure well stimulation or the drilling for, exploring for, or
 453 production of oil, gas, or other petroleum products that ~~which~~
 454 are to be extracted from below the surface of the land,
 455 including submerged land, only through the well hole drilled for
 456 oil, gas, and other petroleum products.

457 1. A ~~No~~ structure intended for the drilling for, or
 458 production of, oil, gas, or other petroleum products may not be
 459 permitted or constructed on any submerged land within any bay or
 460 estuary.

461 2. A ~~No~~ structure intended for the drilling for, or
 462 production of, oil, gas, or other petroleum products may not be
 463 permitted or constructed within 1 mile seaward of the coastline
 464 of the state.

465 3. A ~~No~~ structure intended for the drilling for, or
 466 production of, oil, gas, or other petroleum products may not be
 467 permitted or constructed within 1 mile of the seaward boundary
 468 of any state, local, or federal park or aquatic or wildlife

469 | preserve or on the surface of a freshwater lake, river, or
 470 | stream.

471 | 4. A ~~Ne~~ structure intended for the drilling for, or
 472 | production of, oil, gas, or other petroleum products may not be
 473 | permitted or constructed within 1 mile inland from the shoreline
 474 | of the Gulf of Mexico, the Atlantic Ocean, or any bay or estuary
 475 | or within 1 mile of any freshwater lake, river, or stream unless
 476 | the department is satisfied that the natural resources of such
 477 | bodies of water and shore areas of the state will be adequately
 478 | protected in the event of accident or blowout.

479 | 5. Without exception, after July 1, 1989, a ~~ne~~ structure
 480 | intended for the drilling for, or production of, oil, gas, or
 481 | other petroleum products may not be permitted or constructed
 482 | south of 26°00'00" north latitude off Florida's west coast and
 483 | south of 27°00'00" north latitude off Florida's east coast,
 484 | within the boundaries of Florida's territorial seas as defined
 485 | in 43 U.S.C. s. 1301. After July 31, 1990, a ~~ne~~ structure
 486 | intended for the drilling for, or production of, oil, gas, or
 487 | other petroleum products may not be permitted or constructed
 488 | north of 26°00'00" north latitude off Florida's west coast to
 489 | the western boundary of the state bordering Alabama as set forth
 490 | in s. 1, Art. II of the State Constitution, or located north of
 491 | 27°00'00" north latitude off Florida's east coast to the
 492 | northern boundary of the state bordering Georgia as set forth in
 493 | s. 1, Art. II of the State Constitution, within the boundaries
 494 | of Florida's territorial seas as defined in 43 U.S.C. s. 1301.

495 (b) Subparagraphs (a)1. and 4. do not apply to permitting
 496 or construction of structures intended for the drilling for, or
 497 production of, oil, gas, or other petroleum products pursuant to
 498 an oil, gas, or mineral lease of such lands by the state under
 499 which lease any valid drilling permits are in effect on the
 500 effective date of this act. In the event that such permits
 501 contain conditions or stipulations, such conditions and
 502 stipulations shall govern and supersede subparagraphs (a)1. and
 503 4.

504 (c) The prohibitions of subparagraphs (a)1.-4. ~~in this~~
 505 ~~subsection~~ do not include "infield gathering lines," provided no
 506 other placement is reasonably available and all other required
 507 permits have been obtained.

508 (2) To issue permits to explore for and extract minerals
 509 which are subject to extraction from the land by means other
 510 than through a well hole.

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

514
 515 Each permit shall contain an agreement by the permitholder that
 516 the permitholder will not prevent inspection by division
 517 personnel at any time, including during installation and
 518 cementing of casing, testing of blowout preventers, pressure
 519 testing of the casing and casing shoe, and integrity testing of
 520 the cement plugs in plugging and abandonment operations. The

521 provisions of this section prohibiting permits for drilling or
 522 exploring for oil in coastal waters do not apply to any leases
 523 entered into before June 7, 1991.

524 Section 7. Subsection (1) of section 377.2425, Florida
 525 Statutes, is amended to read:

526 377.2425 Manner of providing security for geophysical
 527 exploration, drilling, and production.—

528 (1) Before ~~Prior to~~ granting a permit for conducting ~~to~~
 529 ~~conduct~~ geophysical operations; drilling of exploratory,
 530 injection, or production wells; producing oil and gas from a
 531 wellhead; performing a high-pressure well stimulation; or
 532 transporting oil and gas through a field-gathering system, the
 533 department shall require the applicant or operator to provide
 534 surety that these operations will be conducted in a safe and
 535 environmentally compatible manner.

536 (a) The applicant for a drilling, production, high-
 537 pressure well stimulation, or injection well permit or a
 538 geophysical permit may provide the following types of surety to
 539 the department for this purpose:

540 1. A deposit of cash or other securities made payable to
 541 the Minerals Trust Fund. Such cash or securities so deposited
 542 shall be held at interest by the Chief Financial Officer to
 543 satisfy safety and environmental performance provisions of this
 544 chapter. The interest shall be credited to the Minerals Trust
 545 Fund. Such cash or other securities shall be released by the
 546 Chief Financial Officer upon request of the applicant and

547 certification by the department that all safety and
 548 environmental performance provisions established by the
 549 department for permitted activities have been fulfilled.

550 2. A bond of a surety company authorized to do business in
 551 the state in an amount as provided by rule.

552 3. A surety in the form of an irrevocable letter of credit
 553 in an amount as provided by rule guaranteed by an acceptable
 554 financial institution.

555 (b) An applicant for a drilling, production, high-pressure
 556 well stimulation, or injection well permit, or a permittee who
 557 intends to continue participating in long-term production
 558 activities of such wells, has the option to provide surety to
 559 the department by paying an annual fee to the Minerals Trust
 560 Fund. For an applicant or permittee choosing this option the
 561 following shall apply:

562 1. For the first year, or part of a year, of a drilling,
 563 production, or injection well permit, or change of operator, the
 564 fee is \$4,000 per permitted well.

565 2. For each subsequent year, or part of a year, the fee is
 566 \$1,500 per permitted well.

567 3. The maximum fee that an applicant or permittee may be
 568 required to pay into the trust fund is \$30,000 per calendar
 569 year, regardless of the number of permits applied for or in
 570 effect.

571 4. The fees set forth in subparagraphs 1., 2., and 3.
 572 shall be reviewed by the department on a biennial basis and

573 | adjusted for the cost of inflation. The department shall
 574 | establish by rule a suitable index for implementing such fee
 575 | revisions.

576 | (c) An applicant for a drilling or operating permit for
 577 | operations planned in coastal waters that by their nature
 578 | warrant greater surety shall provide surety only in accordance
 579 | with paragraph (a), or similar proof of financial responsibility
 580 | other than as provided in paragraph (b). For all such
 581 | applications, including applications pending at the effective
 582 | date of this act and notwithstanding ~~the provisions of~~ paragraph
 583 | (b), the Governor and Cabinet in their capacity as the
 584 | Administration Commission, at the recommendation of the
 585 | department ~~of Environmental Protection~~, shall set a reasonable
 586 | amount of surety required under this subsection. The surety
 587 | amount shall be based on the projected cleanup costs and natural
 588 | resources damages resulting from a maximum oil spill and adverse
 589 | hydrographic and atmospheric conditions that would tend to
 590 | transport the oil into environmentally sensitive areas, as
 591 | determined by the department ~~of Environmental Protection~~.

592 | Section 8. Section 377.2436, Florida Statutes, is created
 593 | to read:

594 | 377.2436 Study on high-pressure well stimulation.-

595 | (1) The department shall conduct a study on high-pressure
 596 | well stimulation. The study shall:

597 | (a) Evaluate the underlying geologic features present in
 598 | the counties where oil wells have been permitted and analyze the

599 potential impact that high-pressure well stimulation and
600 wellbore construction may have on the underlying geologic
601 features.

602 (b) Evaluate the potential hazards and risks that high-
603 pressure well stimulation poses to surface water or groundwater
604 resources. The study shall assess the potential impacts of high-
605 pressure well stimulation on drinking water resources and
606 identify the main factors affecting the severity and frequency
607 of impacts and shall analyze the potential for the use or reuse
608 of recycled water in well stimulation fluids while meeting
609 appropriate water quality standards.

610 (c) Review and evaluate the potential for groundwater
611 contamination from conducting high-pressure well stimulation
612 under wells that have been previously abandoned and plugged and
613 identify a setback radius from previously plugged and abandoned
614 wells that could be impacted by high-pressure well stimulation.

615 (d) Review and evaluate the ultimate disposition of well
616 stimulation fluids after use in well stimulation processes.

617 (2) The department shall continue conventional oil and gas
618 business operations during the performance of the study. There
619 shall not be a moratorium on the evaluation and issuance of
620 permits for conventional drilling, exploration, conventional
621 completions, or conventional workovers during the performance of
622 the study.

623 (3) The study is subject to independent scientific peer
624 review.

625 (4) The findings of the study shall be submitted to the
 626 Governor, the President of the Senate, and the Speaker of the
 627 House of Representatives by June 30, 2017, and shall be
 628 prominently posted on the department website.

629 Section 9. Paragraph (a) of subsection (1) of section
 630 377.37, Florida Statutes, is amended to read:

631 377.37 Penalties.—

632 (1)(a) A ~~Any~~ person who violates any provision of this
 633 chapter law or any rule, regulation, or order of the division
 634 made under this chapter or who violates the terms of any permit
 635 to drill for or produce oil, gas, or other petroleum products
 636 referred to in s. 377.242(1) or to store gas in a natural gas
 637 storage facility, or any lessee, permitholder, or operator of
 638 equipment or facilities used in the exploration for, drilling
 639 for, or production of oil, gas, or other petroleum products, or
 640 storage of gas in a natural gas storage facility, who refuses
 641 inspection by the division as provided in this chapter, is
 642 liable to the state for any damage caused to the air, waters, or
 643 property, including animal, plant, or aquatic life, of the state
 644 and for reasonable costs and expenses of the state in tracing
 645 the source of the discharge, in controlling and abating the
 646 source and the pollutants, and in restoring the air, waters, and
 647 property, including animal, plant, and aquatic life, of the
 648 state. Furthermore, such person, lessee, permitholder, or
 649 operator is subject to the judicial imposition of a civil
 650 penalty ~~in an amount~~ of not more than \$25,000 ~~\$10,000~~ for each

651 offense. However, the court may receive evidence in mitigation.
652 Each day during any portion of which such violation occurs
653 constitutes a separate offense. This paragraph does not ~~Nothing~~
654 ~~herein shall~~ give the department the right to bring an action on
655 behalf of a any private person.

656 Section 10. Section 377.45, Florida Statutes, is created
657 to read:

658 377.45 High-pressure well stimulation chemical disclosure
659 registry.-

660 (1) (a) The department shall designate the national
661 chemical disclosure registry, known as FracFocus, developed by
662 the Ground Water Protection Council and the Interstate Oil and
663 Gas Compact Commission, as the state's registry for chemical
664 disclosure for all wells on which high-pressure well
665 stimulations are performed. The department shall provide a link
666 to FracFocus through the department's website.

667 (b) In addition to providing such information to the
668 department as part of the permitting process, a service
669 provider, vendor, or well owner or operator shall report, by
670 department rule, to the department, at a minimum, the following
671 information:

672 1. The name of the service provider, vendor, or owner or
673 operator.

674 2. The date of completion of the high-pressure well
675 stimulation.

676 3. The county in which the well is located.

- 677 4. The API number for the well.
- 678 5. The well name and number.
- 679 6. The longitude and latitude of the wellhead.
- 680 7. The total vertical depth of the well.
- 681 8. The total volume of water used in the high-pressure
 682 well stimulation.
- 683 9. Each chemical ingredient that is subject to 29 C.F.R.
 684 s. 1910.1200(g)(2) and the ingredient concentration in the high-
 685 pressure well stimulation fluid by mass for each well on which a
 686 high-pressure well stimulation is performed.
- 687 10. The trade or common name and the CAS registry number
 688 for each chemical ingredient.
- 689 (c) The department shall report to FracFocus all
 690 information received pursuant to paragraph (b), excluding any
 691 information subject to chapter 688.
- 692 (d) If the chemical disclosure registry cannot accept and
 693 make publicly available any information specified in this
 694 section, the department shall post the information on the
 695 department's website, excluding any information subject to
 696 chapter 688.
- 697 (2) A service provider, vendor, or well owner or operator
 698 shall:
- 699 (a) Report the information required under subsection (1)
 700 to the department within 60 days after the initiation of the
 701 high-pressure well stimulation for each well on which such high-
 702 pressure well stimulation is performed.

703 (b) Notify the department if any chemical ingredient not
 704 previously reported is intentionally included and used for the
 705 purpose of performing a high-pressure well stimulation.

706 (3) This section does not apply to an ingredient that:

707 (a) Is not intentionally added to the high-pressure well
 708 stimulation; or

709 (b) Occurs incidentally or is otherwise unintentionally
 710 present in a high-pressure well stimulation.

711 (4) The department shall adopt rules to administer this
 712 section.

713 Section 11. Section 377.07, Florida Statutes, is amended
 714 to read:

715 377.07 Division of Water Resource Management; powers,
 716 duties, and authority.—The Division of Water Resource Management
 717 of the Department of Environmental Protection is ~~hereby~~ vested
 718 with power, authority, and duty to administer, carry out, and
 719 enforce ~~the provisions of this part law as directed in s.~~
 720 ~~370.02(3).~~

721 Section 12. Section 377.10, Florida Statutes, is amended
 722 to read:

723 377.10 Certain persons not to be employed by division.—A
 724 ~~Ne~~ person in the employ of, or holding any official connection
 725 or position with any person, firm, partnership, corporation, or
 726 association of any kind, engaged in the business of buying or
 727 selling mineral leases, drilling wells in the search of oil or
 728 gas, producing, transporting, refining, or distributing oil or

729 | gas may not ~~shall~~ hold any position under, or be employed by,
 730 | the Division of Water Resource Management in the prosecution of
 731 | its duties under this part law.

732 | Section 13. Subsection (1) of section 377.243, Florida
 733 | Statutes, is amended to read:

734 | 377.243 Conditions for granting permits for extraction
 735 | through well holes.-

736 | (1) Before ~~Prior to~~ the application to the Division of
 737 | Water Resource Management for the permit to drill for oil, gas,
 738 | and related products referred to in s. 377.242(1), the applicant
 739 | must own a valid deed, or other muniment of title, or lease
 740 | granting the ~~said~~ applicant the privilege to explore for oil,
 741 | gas, or related mineral products to be extracted only through
 742 | the well hole on the land or lands included in the application.
 743 | However, unallocated interests may be unitized according to s.
 744 | 377.27.

745 | Section 14. Subsection (1) of section 377.244, Florida
 746 | Statutes, is amended to read:

747 | 377.244 Conditions for granting permits for surface
 748 | exploratory and extraction operations.-

749 | (1) ~~Exploration~~ for and extraction of minerals under ~~and~~
 750 | ~~by virtue of~~ the authority of a grant of oil, gas, or mineral
 751 | rights, or which, subsequent to such grant, may ~~be interpreted~~
 752 | ~~to~~ include the right to explore for and extract minerals which
 753 | are subject to extraction from the land by means other than
 754 | through a well hole, that is by means of surface exploratory and

755 extraction operations such as sifting of the sands, dragline,
 756 open pit mining, or other type of surface operation, which would
 757 include movement of sands, dirt, rock, or minerals, shall be
 758 exercised only pursuant to a permit issued by the Division of
 759 Water Resource Management upon the applicant's compliance
 760 ~~applicant complying~~ with the following conditions:

761 (a) The applicant must own a valid deed, or other muniment
 762 of title, or lease granting the applicant the right to explore
 763 for and extract oil, gas, and other minerals from the said
 764 lands.

765 (b) The applicant shall post a good and sufficient surety
 766 bond with the division in such amount as the division determines
 767 ~~may determine~~ is adequate to afford full and complete protection
 768 for the owner of the surface rights of the lands described in
 769 the application, conditioned upon the full and complete
 770 restoration, by the applicant, of the area over which the
 771 exploratory and extraction operations are conducted to the same
 772 condition and contour in existence before ~~prior to~~ such
 773 operations.

774 Section 15. For the 2016-2017 fiscal year, the sum of \$1
 775 million in nonrecurring funds is appropriated from the General
 776 Revenue Fund to the Department of Environmental Protection to
 777 perform a high-pressure well stimulation study pursuant to s.
 778 377.2436, Florida Statutes.

779 Section 16. This act shall take effect July 1, 2016.