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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/11/2019	.	
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The Committee on Agriculture (Albritton) recommended the following:

Senate Amendment (with title amendment)

Between lines 35 and 36
insert:

Section 3. Paragraph (f) of subsection (2) of section
377.22, Florida Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules
pursuant to ss. 120.536 and 120.54 to implement and enforce the
provisions of this chapter. Such rules and orders shall ensure



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11 that all precautions are taken to prevent the spillage of oil or
12 any other pollutant in all phases of the drilling for, and
13 extracting of, oil, gas, or other petroleum products, or during
14 the injection of gas into and recovery of gas from a natural gas
15 storage reservoir. The department shall revise such rules from
16 time to time as necessary for the proper administration and
17 enforcement of this chapter. Rules adopted and orders issued in
18 accordance with this section are for, but not limited to, the
19 following purposes:

20 (f) To require a reasonable bond, or other form of security
21 acceptable to the department, conditioned upon the performance
22 of the duty to plug properly each dry and abandoned well and the
23 full and complete restoration by the applicant of the area over
24 which geophysical exploration, drilling, or production is
25 conducted to the similar contour and general condition in
26 existence before ~~prior to~~ such operation. In the Everglades
27 Protection Area, the bond must be for a minimum of \$500,000 per
28 well or, for a blanket bond, for a minimum of \$5 million.

29 Section 4. Paragraph (b) of subsection (1) of section
30 377.244, Florida Statutes, is amended to read:

31 377.244 Conditions for granting permits for surface
32 exploratory and extraction operations.—

33 (1) Exploration for and extraction of minerals under and by
34 virtue of the authority of a grant of oil, gas, or mineral
35 rights, or which, subsequent to such grant, may be interpreted
36 to include the right to explore for and extract minerals which
37 are subject to extraction from the land by means other than
38 through a well hole, that is by means of surface exploratory and
39 extraction operations such as sifting of the sands, dragline,



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40 open pit mining, or other type of surface operation, which would
41 include movement of sands, dirt, rock, or minerals, shall be
42 exercised only pursuant to permit issued by the Division of
43 Resource Management upon applicant complying with the following
44 conditions:

45 (b) The applicant shall post a good and sufficient surety
46 bond with the division in such amount as the division may
47 determine is adequate to afford full and complete protection for
48 the owner of the surface rights of the lands described in the
49 application, conditioned upon the full and complete restoration,
50 by the applicant, of the area over which the exploratory and
51 extraction operations are conducted to the same condition and
52 contour in existence before ~~prior to~~ such operations. In the
53 Everglades Protection Area, the bond must be for a minimum of
54 \$500,000 per well or, for a blanket bond, for a minimum of \$5
55 million.

56 Section 5. Paragraph (a) of subsection (1) of section
57 377.37, Florida Statutes, is amended to read:

58 377.37 Penalties.—

59 (1) (a) Any person who violates any provision of this law or
60 any rule, regulation, or order of the division made under this
61 chapter or who violates the terms of any permit to drill for or
62 produce oil, gas, or other petroleum products referred to in s.
63 377.242(1) or to store gas in a natural gas storage facility, or
64 any lessee, permitholder, or operator of equipment or facilities
65 used in the exploration for, drilling for, or production of oil,
66 gas, or other petroleum products, or storage of gas in a natural
67 gas storage facility, who refuses inspection by the division as
68 provided in this chapter, is liable to the state for any damage



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69 caused to the air, waters, or property, including animal, plant,
70 or aquatic life, of the state and for reasonable costs and
71 expenses of the state in tracing the source of the discharge, in
72 controlling and abating the source and the pollutants, and in
73 restoring the air, waters, and property, including animal,
74 plant, and aquatic life, of the state. Furthermore, such person,
75 lessee, permitholder, or operator is subject to the judicial
76 imposition of a civil penalty in an amount of not more than
77 \$10,000 for each offense, except that for offenses occurring in
78 the Everglades Protection Area the penalty is \$50,000 for each
79 offense. However, the court may receive evidence in mitigation.
80 Each day during any portion of which such violation occurs
81 constitutes a separate offense. Nothing herein shall give the
82 department the right to bring an action on behalf of any private
83 person.

84 Section 6. Section 377.421, Florida Statutes, is created to
85 read:

86 377.421 Drilling in the Everglades Protection Area.-

87 (1) For purposes of this section, the term "Everglades
88 Protection Area" means Water Conservation Areas 1, 2A, 2B, 3A,
89 and 3B; the Arthur R. Marshall Loxahatchee National Wildlife
90 Refuge; and the Everglades National Park.

91 (2) The Department of Environmental Protection shall
92 evaluate each application to drill and shall visit each proposed
93 access route and drilling site in the Everglades Protection Area
94 to ensure that the exploration and production activities will
95 not cause any permanent adverse impact on the water resources or
96 the sheet flow of the area or on the vegetation or the wildlife
97 of the area, with a special emphasis placed on rare and



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98 endangered species. If a proposed site is located on developed
99 or highly impacted uplands, the department must review the
100 application and field inspection reports from staff to determine
101 whether to reinspect the site. If a reinspection is necessary,
102 subparagraph (3) (a)1. does not apply.

103 (3) In evaluating applications, the department shall use
104 the following criteria:

105 (a) For roads, including road extensions:

106 1. A permit to drill must be obtained before any road
107 construction or improvement begins.

108 2. Existing roads must be used where feasible.

109 3. The improvement of existing roads or the construction of
110 new roads must be completed from trucked-in fill material that
111 is taken from approved borrow pits. There may not be any
112 parallel borrow canals along roads.

113 4. All roads must have culverts installed and be maintained
114 to prevent degradation by industry vehicles. The size and number
115 of culverts must be sufficient to ensure that the natural flow
116 of water is not impeded and the resource is protected.

117 5. All roads may be only wide enough to accommodate one
118 lane of traffic, but must have at least one turnout every mile
119 for passing.

120 6. All road elevations must be high enough to assure year-
121 round usage, except where otherwise expressly required to be
122 less.

123 7. All roads must follow the best practical route suited to
124 protect the natural environment. Where feasible, roads and road
125 extensions should follow existing wood roads.

126 8. Roads must be constructed in a way that avoids serious



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127 damage to or enduring scars to land and loss of wildlife, and
128 must be constructed to avoid obstructing the natural movement of
129 water and wildlife.

130 9. All roads must be restored as specified in rule 62C-
131 29.009, F.A.C.

132 10. All new access roads authorized to serve the needs of
133 exploration activities must be limited in use to the permitted
134 purpose. For these limited use access roads, the applicant shall
135 submit as part of the permit application the means to accomplish
136 the limited use, including the control of unauthorized vehicles,
137 for the duration of the permitted purpose of the road.

138 11. Access corridors and drilling pads may not be
139 constructed in or through sensitive resources, such as cypress
140 or mixed forest swamps, hardwood hammocks, mangrove forests,
141 archaeological sites, native ceremonial grounds, and those zones
142 documented or confirmed by the Fish and Wildlife Conservation
143 Commission as being areas of high-level Florida panther activity
144 unless reasonable and prudent alternatives are not available.
145 Known red-cockaded woodpecker colonies, rookeries, alligator
146 holes, research sites, pine uplands, and threatened or
147 endangered species habitats must be avoided where possible.

148 12. Access corridors, including pipelines, must be
149 contiguous where possible and corridors emanating from new entry
150 points must be prohibited unless the applicant demonstrates them
151 to be the more prudent and reasonable alternative.

152 (b) For drilling sites:

153 1. The sites must be located to minimize negative impacts
154 on the vegetation and wildlife, including rare and endangered
155 species, and on the surface water resources.



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156 2. Topographical and engineering surveys of the drilling
157 site, together with an aerial photograph of the drill site,
158 shall be prepared at a large scale with the well spotted
159 thereupon and included as a part of the permit application.

160 3. Site preparation may not begin before the applicant
161 obtains a permit to drill, except as specified in subsection
162 (2).

163 4. Every effort shall be made to limit the drilling's
164 impact on the Everglades Protection Area environment by using
165 prairies, limited-growth forest, grazing, farming, or cleared
166 lands where practical.

167 5. Drilling pads shall be constructed from trucked-in fill
168 material that is taken from approved borrow pits and be
169 constructed to an elevation sufficient to ensure year-round
170 usage.

171 6. A protective berm of sufficient height and
172 impermeability to prevent the escape of pad fluids shall be
173 constructed around the drilling site and storage tank areas.

174 7. Directional or slant drilling shall be used from
175 existing drilling pads where technically feasible and where it
176 will have a beneficial effect upon maintaining environmental
177 quality.

178 8. All drilling sites shall be restored as specified in
179 rule 62C-29.009, Florida Administrative Code.

180 (c) For production:

181 1. The operating company shall submit to the department a
182 field development plan as soon as practical for each new field.
183 All transportation of oil in the Everglades Protection Area
184 shall be by pipeline.



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185 2. If the oil from a producing well is to be removed by
186 pipeline, the pipeline must be equipped with automatic shut-off
187 valves.

188 3. All flowlines and utilities shall be contained within
189 the rights-of-way secured for road construction.

190 4. The operating company shall develop an emergency and
191 contingency plan. An updated plan must be submitted annually to
192 the department.

193 5. The operating company shall clean the site of any oil or
194 other contaminants spilled in conjunction with the drilling,
195 production, and transportation activities. Spill response and
196 remediation equipment must remain on site and be made available
197 for immediate use to accomplish this goal.

198 (4) Within the Everglades Protection Area, a wildlife
199 impact study must be completed at the time of the initial
200 application and at the time of subsequent recertification.

201 (5) The refining of oil is prohibited in the Everglades
202 Protection Area.

203 Section 7. Subsection (3) is added to section 570.93,
204 Florida Statutes, to read:

205 570.93 Department of Agriculture and Consumer Services;
206 agricultural water conservation and agricultural water supply
207 planning.—

208 (3) The use of flowback fluid for crop irrigation is
209 prohibited in this state. For purposes of this subsection, the
210 term "flowback fluid" means any liquid that flows back to the
211 surface during or after completion of well stimulation.

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213 ===== T I T L E A M E N D M E N T =====



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214 And the title is amended as follows:

215 Delete lines 2 - 6

216 and insert:

217 An act relating to oil drilling; amending s. 377.19,
218 F.S.; defining the term "fracking"; creating s.
219 377.2405, F.S.; prohibiting fracking in this state;
220 providing that permits for drilling or operating a
221 well do not authorize fracking; amending s. 377.22,
222 F.S.; requiring specified amounts for bonds for
223 certain operations in the Everglades Protection Area;
224 amending s. 377.244, F.S.; requiring an applicant for
225 certain explorations for and extraction of minerals to
226 post a specified surety bond for projects in the
227 Everglades Protection Area; amending s. 377.37, F.S.;
228 revising civil penalties for certain violations to
229 require an increased penalty for offenses occurring in
230 the Everglades Protection Area; creating s. 377.421,
231 F.S.; defining the term "Everglades Protection Area";
232 requiring the Department of Environmental Protection
233 to evaluate drilling applications and visit proposed
234 access routes and drilling sites in the Everglades
235 Protection Area for specified purposes; specifying
236 requirements for such evaluation; requiring a wildlife
237 impact study for the initial application and
238 subsequent recertification; prohibiting the refining
239 of oil within the Everglades Protection Area; amending
240 s. 570.93, F.S.; prohibiting the use of flowback fluid
241 for crop irrigation in this state; defining the term
242 "flowback fluid"; providing an effective date.