

By the Committee on Agriculture

575-02911-19

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1 A bill to be entitled
2 An act relating to oil drilling; amending s. 377.19,
3 F.S.; defining the term "fracking"; amending s.
4 377.22, F.S.; requiring specified amounts for bonds
5 for certain operations in the Everglades Protection
6 Area; creating s. 377.2405, F.S.; prohibiting fracking
7 in this state; providing that permits for drilling or
8 operating a well do not authorize fracking;
9 prohibiting the disposal of flowback fluid by deep
10 well injection or any other below ground method in
11 this state; defining the term "flowback fluid";
12 amending s. 377.244, F.S.; requiring an applicant for
13 certain explorations for and extraction of minerals to
14 post a specified surety bond for projects in the
15 Everglades Protection Area; amending s. 377.37, F.S.;
16 revising civil penalties for certain violations to
17 require an increased penalty for offenses occurring in
18 the Everglades Protection Area; creating s. 377.421,
19 F.S.; defining the term "Everglades Protection Area";
20 requiring the Department of Environmental Protection
21 to evaluate drilling applications and visit proposed
22 access routes and drilling sites in the Everglades
23 Protection Area for specified purposes; specifying
24 requirements for such evaluation; requiring a wildlife
25 impact study for the initial application and
26 subsequent recertification; prohibiting the refining
27 of oil within the Everglades Protection Area; amending
28 s. 570.93, F.S.; prohibiting the use of flowback fluid
29 for crop irrigation in this state; defining the term

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30 "flowback fluid"; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Present subsections (5) through (32) of section
35 377.19, Florida Statutes, are redesignated as subsections (6)
36 through (33), respectively, and a new subsection (5) is added to
37 that section, and present subsection (5) of that section is
38 amended, to read:

39 377.19 Definitions.—As used in ss. 377.06, 377.07, and
40 377.10-377.40, the term:

41 (5) "Fracking" means all stages of a well intervention
42 performed by injecting large volumes of fluids at a high rate
43 into a rock formation at pressures that exceed the fracture
44 gradient of the rock formation in order to propagate hydraulic
45 fractures. The term does not include other well intervention
46 techniques, including conventional well stimulation or
47 conventional workover procedures; techniques used for routine
48 well cleanout work, well maintenance, or removal of formation
49 damage due to drilling or production; or conventional acidizing
50 techniques used to enhance, maintain, or restore the natural
51 permeability of the formation.

52 (6) ~~(5)~~ "Gas" means all natural gas, including casinghead
53 gas, and all other hydrocarbons not defined as oil in subsection
54 (16) ~~(15)~~.

55 Section 2. Paragraph (f) of subsection (2) of section
56 377.22, Florida Statutes, is amended to read:

57 377.22 Rules and orders.—

58 (2) The department shall issue orders and adopt rules

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59 pursuant to ss. 120.536 and 120.54 to implement and enforce the
60 provisions of this chapter. Such rules and orders shall ensure
61 that all precautions are taken to prevent the spillage of oil or
62 any other pollutant in all phases of the drilling for, and
63 extracting of, oil, gas, or other petroleum products, or during
64 the injection of gas into and recovery of gas from a natural gas
65 storage reservoir. The department shall revise such rules from
66 time to time as necessary for the proper administration and
67 enforcement of this chapter. Rules adopted and orders issued in
68 accordance with this section are for, but not limited to, the
69 following purposes:

70 (f) To require a reasonable bond, or other form of security
71 acceptable to the department, conditioned upon the performance
72 of the duty to plug properly each dry and abandoned well and the
73 full and complete restoration by the applicant of the area over
74 which geophysical exploration, drilling, or production is
75 conducted to the similar contour and general condition in
76 existence before ~~prior to~~ such operation. In the Everglades
77 Protection Area, the bond must be for a minimum of \$500,000 per
78 well or, for a blanket bond, for a minimum of \$5 million.

79 Section 3. Section 377.2405, Florida Statutes, is created
80 to read:

81 377.2405 Fracking.—Fracking is prohibited in this state. A
82 permit for drilling or operating a well does not authorize
83 fracking. The disposal of flowback fluid by deep well injection
84 or any other below ground method is prohibited in this state.
85 For purposes of this section, the term "flowback fluid" means
86 any liquid that flows back to the surface during or after
87 completion of well stimulation.

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88 Section 4. Paragraph (b) of subsection (1) of section
89 377.244, Florida Statutes, is amended to read:

90 377.244 Conditions for granting permits for surface
91 exploratory and extraction operations.—

92 (1) Exploration for and extraction of minerals under and by
93 virtue of the authority of a grant of oil, gas, or mineral
94 rights, or which, subsequent to such grant, may be interpreted
95 to include the right to explore for and extract minerals which
96 are subject to extraction from the land by means other than
97 through a well hole, that is by means of surface exploratory and
98 extraction operations such as sifting of the sands, dragline,
99 open pit mining, or other type of surface operation, which would
100 include movement of sands, dirt, rock, or minerals, shall be
101 exercised only pursuant to permit issued by the Division of
102 Resource Management upon applicant complying with the following
103 conditions:

104 (b) The applicant shall post a good and sufficient surety
105 bond with the division in such amount as the division may
106 determine is adequate to afford full and complete protection for
107 the owner of the surface rights of the lands described in the
108 application, conditioned upon the full and complete restoration,
109 by the applicant, of the area over which the exploratory and
110 extraction operations are conducted to the same condition and
111 contour in existence before ~~prior to~~ such operations. In the
112 Everglades Protection Area, the bond must be for a minimum of
113 \$500,000 per well or, for a blanket bond, for a minimum of \$5
114 million.

115 Section 5. Paragraph (a) of subsection (1) of section
116 377.37, Florida Statutes, is amended to read:

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117 377.37 Penalties.—

118 (1) (a) Any person who violates any provision of this law or
119 any rule, regulation, or order of the division made under this
120 chapter or who violates the terms of any permit to drill for or
121 produce oil, gas, or other petroleum products referred to in s.
122 377.242(1) or to store gas in a natural gas storage facility, or
123 any lessee, permitholder, or operator of equipment or facilities
124 used in the exploration for, drilling for, or production of oil,
125 gas, or other petroleum products, or storage of gas in a natural
126 gas storage facility, who refuses inspection by the division as
127 provided in this chapter, is liable to the state for any damage
128 caused to the air, waters, or property, including animal, plant,
129 or aquatic life, of the state and for reasonable costs and
130 expenses of the state in tracing the source of the discharge, in
131 controlling and abating the source and the pollutants, and in
132 restoring the air, waters, and property, including animal,
133 plant, and aquatic life, of the state. Furthermore, such person,
134 lessee, permitholder, or operator is subject to the judicial
135 imposition of a civil penalty in an amount of not more than
136 \$10,000 for each offense, except that for offenses occurring in
137 the Everglades Protection Area the penalty is \$50,000 for each
138 offense. However, the court may receive evidence in mitigation.
139 Each day during any portion of which such violation occurs
140 constitutes a separate offense. Nothing herein shall give the
141 department the right to bring an action on behalf of any private
142 person.

143 Section 6. Section 377.421, Florida Statutes, is created to
144 read:

145 377.421 Drilling in the Everglades Protection Area.—

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

150 (2) The Department of Environmental Protection shall
151 evaluate each application to drill and shall visit each proposed
152 access route and drilling site in the Everglades Protection Area
153 to ensure that the exploration and production activities will
154 not cause any permanent adverse impact on the water resources or
155 the sheet flow of the area or on the vegetation or the wildlife
156 of the area, with a special emphasis placed on rare and
157 endangered species. If a proposed site is located on developed
158 or highly impacted uplands, the department must review the
159 application and field inspection reports from staff to determine
160 whether to reinspect the site. If a reinspection is necessary,
161 subparagraph (3) (a) 1. does not apply.

162 (3) In evaluating applications, the department shall use
163 the following criteria:

164 (a) For roads, including road extensions:

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

167 2. Existing roads must be used where feasible.

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

172 4. All roads must have culverts installed and be maintained
173 to prevent degradation by industry vehicles. The size and number
174 of culverts must be sufficient to ensure that the natural flow

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175 of water is not impeded and the resource is protected.

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

179 6. All road elevations must be high enough to assure year-
180 round usage, except where otherwise expressly required to be
181 less.

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

185 8. Roads must be constructed in a way that avoids serious
186 damage to or enduring scars to land and loss of wildlife, and
187 must be constructed to avoid obstructing the natural movement of
188 water and wildlife.

189 9. All roads must be restored as specified in rule 62C-
190 29.009, F.A.C.

191 10. All new access roads authorized to serve the needs of
192 exploration activities must be limited in use to the permitted
193 purpose. For these limited use access roads, the applicant shall
194 submit as part of the permit application the means to accomplish
195 the limited use, including the control of unauthorized vehicles,
196 for the duration of the permitted purpose of the road.

197 11. Access corridors and drilling pads may not be
198 constructed in or through sensitive resources, such as cypress
199 or mixed forest swamps, hardwood hammocks, mangrove forests,
200 archaeological sites, native ceremonial grounds, and those zones
201 documented or confirmed by the Fish and Wildlife Conservation
202 Commission as being areas of high-level Florida panther activity
203 unless reasonable and prudent alternatives are not available.

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204 Known red-cockaded woodpecker colonies, rookeries, alligator
205 holes, research sites, pine uplands, and threatened or
206 endangered species habitats must be avoided where possible.

207 12. Access corridors, including pipelines, must be
208 contiguous where possible and corridors emanating from new entry
209 points must be prohibited unless the applicant demonstrates them
210 to be the more prudent and reasonable alternative.

211 (b) For drilling sites:

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

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

219 3. Site preparation may not begin before the applicant
220 obtains a permit to drill, except as specified in subsection
221 (2).

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

226 5. Drilling pads shall be constructed from trucked-in fill
227 material that is taken from approved borrow pits and be
228 constructed to an elevation sufficient to ensure year-round
229 usage.

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

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233 7. Directional or slant drilling shall be used from
234 existing drilling pads where technically feasible and where it
235 will have a beneficial effect upon maintaining environmental
236 quality.

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

239 (c) For production:

240 1. The operating company shall submit to the department a
241 field development plan as soon as practical for each new field.
242 All transportation of oil in the Everglades Protection Area
243 shall be by pipeline.

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

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

249 4. The operating company shall develop an emergency and
250 contingency plan. An updated plan must be submitted annually to
251 the department.

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

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

260 (5) The refining of oil is prohibited in the Everglades
261 Protection Area.

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

264 570.93 Department of Agriculture and Consumer Services;
265 agricultural water conservation and agricultural water supply
266 planning.—

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

271 Section 8. This act shall take effect July 1, 2019.