

By the Committee on Natural Resources and Senator Lee

312-1877-98

1 A bill to be entitled
 2 An act relating to rulemaking authority of the
 3 Department of Environmental Protection with
 4 respect to phosphogypsum management; requiring
 5 the Department of Environmental Protection to
 6 adopt rules to ensure that phosphogypsum stack
 7 systems are operated to meet critical safety
 8 standards by July 1, 1999; amending s.
 9 403.1651, F.S.; authorizing the Department of
 10 Environmental Protection to enter into
 11 settlements in which moneys are to be deposited
 12 into a local pollution-recovery fund and used
 13 for specified purposes; providing an effective
 14 date.

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

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 18 Section 1. Phosphogypsum Management.--By July 1, 1999,
 19 the Department of Environmental Protection shall adopt rules
 20 to amend existing chapter 62-672, Florida Administrative Code,
 21 to ensure that impoundment structures and water conveyance
 22 pipng systems used in phosphogypsum management are designed
 23 and maintained to meet critical safety standards. The rules
 24 must require that any impoundment structure used in a
 25 phosphogypsum stack system, together with all pumps, piping,
 26 ditches, drainage conveyances, water control structures,
 27 collection pools, cooling ponds, surge ponds, and any other
 28 collection or conveyance system associated with phosphogypsum
 29 transport, cooling water, or the return of process wastewater,
 30 are constructed using sound engineering practices and are
 31 operated to avoid spills or discharges of materials which

1 adversely affect surface or ground waters. The rules must
2 require that a phosphogypsum stack system owner maintain a log
3 detailing the owner's operating inspection schedule, results,
4 and any corrective action taken based on the inspection
5 results. The rules must require phosphogypsum stack owners to
6 maintain an emergency contingency plan and demonstrate the
7 ability to mobilize equipment and manpower to respond to
8 emergency situations at phosphogypsum stack systems. The rules
9 must establish a reasonable time period not to exceed 12
10 months for facilities to meet the provisions of the rules
11 adopted pursuant to this section.

12 Section 2. Paragraph (a) of subsection (2) of section
13 403.1651, Florida Statutes, is amended to read:

14 403.1651 Ecosystem Management and Restoration Trust
15 Fund.--

16 (2) The trust fund shall be used for the deposit of
17 all moneys recovered by the state:

18 (a) As a result of actions against any person for a
19 violation of chapter 373 or this chapter initiated by the
20 department. No settlement entered into by the department
21 shall limit the Legislature's authority to appropriate moneys
22 from the trust fund; provided, however, that the department
23 may enter into a settlement in which the department agrees to
24 request that moneys received pursuant to the settlement will
25 be included in its legislative budget request for purposes set
26 out in the settlement, and provided further, that the
27 department may enter into a settlement in cases involving
28 joint enforcement with a local pollution control program, as
29 defined by s. 403.182, in which the department agrees that
30 moneys are to be deposited into a local pollution-recovery
31 fund and used for projects giving first priority to restoring

1 the environmental damage that was the cause of action for
2 which funds were received and that are consistent with the
3 purposes of the Ecosystem Management and Restoration Trust
4 Fund.

5 Section 3. This act shall take effect upon becoming a
6 law.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 1176

11 The date by which the DEP must adopt rules amending ch.
12 62-672, F.A.C., has been changed from January 1, 1999 to July
13 1, 1999. These rules must establish a reasonable time period,
14 not to exceed 12 months, for facilities to implement the
15 provisions of the rules. References to temporary impoundment
16 structures have been deleted and a requirement that water
17 collection and control facilities be reasonably constructed
18 and operated to prevent catastrophic spills has been replaced
19 with a requirement that such facilities be constructed using
20 sound engineering practices and operated to avoid spills or
21 discharges of materials adversely affecting surface or ground
22 waters.

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The committee substitute also permits the DEP to enter into
settlements in cases involving joint enforcement with a local
pollution control program in which funds from the settlement
are deposited into a local pollution recovery fund and used
for projects which give first priority to restoring the
environmental damage that was the cause of action for which
the funds were received and that are consistent with the
purposes of the Ecosystem Management and Restoration Trust
Fund.