

Bill No. CS for CS for SB 1312, 1st Enq.

Amendment No. Barcode 473156

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2	04/30/2003	.	
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11 Senator Alexander moved the following amendment:

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13 **Senate Amendment**

14 On page 25, line 13, through page 28, line 6, delete
15 those lines

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17 and insert:

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19 (2)(a) By October 1, 2003, the department shall
20 initiate rulemaking to require that phosphogypsum stack system
21 operation plans required by department rule be amended by
22 adding an interim stack system management (ISSM) plan that
23 provides written instructions for the operation of the system
24 assuming that no phosphoric acid would be produced at the
25 facility for a 2-year period. The initial ISSM plan shall be
26 completed as of the first July 1 following the adoption of the
27 rule required by this section. The ISSM plan shall include:

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28 1. A detailed description of process water management
29 procedures that will be implemented to ensure that the stack
30 system operates in accordance with all applicable department
31 permit conditions and rules. The procedures shall address the
actual process water levels present at the facility 30 days

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1 prior to the completion of the plan and shall assume that the
2 facility will receive annual average rainfall during the
3 2-year planning period.

4 2. A detailed description of the procedures to be
5 followed for the daily operation and routine maintenance of
6 the stack system, including required environmental sampling
7 and analyses, as well as for any maintenance or repairs
8 recommended following annual inspections of the system.

9 3. Identification of all machinery, equipment, and
10 materials necessary to implement the plan.

11 4. Identification of the sources of power or fuel
12 necessary to implement the plan.

13 5. Identification of the personnel necessary to
14 implement the plan.

15 (b) The ISSM plan shall be updated annually, taking
16 into account process water levels as of June 1 of each year
17 and the existing stack system configuration.

18 (c) The requirements listed in paragraphs (a) and (b)
19 are applicable to all phosphogypsum stack systems except those
20 which have been closed, which are undergoing closure, or for
21 which an application for a closure permit has been submitted
22 pursuant to department rule.

23 (3)(a) By October 1, 2003, the department shall
24 initiate rulemaking to require that general plans and
25 schedules for the closure of phosphogypsum stack systems
26 include:

27 1. A description of the physical configuration of the
28 phosphogypsum stack system anticipated at the time of closure
29 at the end of useful life of the system.

30 2. A site-specific water management plan describing
31 the procedures to be employed at the end of the useful life of

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1 the system to manage the anticipated volume of process water
2 in an environmentally sound manner.

3 3. An estimate of the cost of management of the
4 anticipated volume of process water in accordance with the
5 site-specific water management plan.

6 4. A description of all construction work necessary to
7 properly close the system in accordance with department rules.

8 5. An estimate of all costs associated with long-term
9 care of the closed system, including maintenance and
10 monitoring, in accordance with department rules.

11 (b) The department shall revise chapter 62-673,
12 Florida Administrative Code, to require the owner or operator
13 of a phosphogypsum stack management system to demonstrate
14 financial responsibility for the costs of terminal closure of
15 the phosphogypsum stack system in a manner that protects the
16 public health and safety.

17 1. The costs of terminal closure shall be estimated
18 based on the stack system configuration as of the end of its
19 useful life as determined by the owner or operator.

20 2. The owner or operator may demonstrate financial
21 responsibility by use of one or more of the following methods:

- 22 a. Bond.
- 23 b. Letter of credit.
- 24 c. Cash deposit arrangement.
- 25 d. Closure insurance.
- 26 e. Financial tests.
- 27 f. Corporate guarantee.

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29 For the purposes of this section, a "cash deposit arrangement"
30 refers to a trust fund, business or statutory trust, escrow
31 account, or similar cash deposit entity whereby a fiduciary

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1 holds and invests funds deposited by the owner or operator,
2 which funds shall be expended only for the purpose of directly
3 implementing all or some portion of phosphogypsum stack system
4 closure requirements of that particular owner or operator.

5 3. A trustee, escrow agent, or other fiduciary of a
6 cash deposit arrangement authorized by this section shall have
7 no liability for any damage or loss of any kind arising out of
8 or caused by performance of duties imposed by the terms of the
9 applicable agreement except where such damage or loss is
10 directly caused by the gross negligence or criminal act of the
11 trustee, escrow agent, or other fiduciary. In performing its
12 duties pursuant to the applicable agreement, a trustee, escrow
13 agent, or other fiduciary shall be entitled to rely upon
14 information and direction received from the grantor or the
15 department without independent verification unless such
16 information and direction are manifestly in error:

17 4. To the extent that a cash deposit arrangement is
18 used to provide proof of financial responsibility for all or a
19 portion of closure costs, the trust, escrow, or cash
20 arrangement deposit entity shall be deemed to have assumed all
21 liability for such closure costs up to the amount of the cash
22 deposit, less any fees or costs of the trustee, escrow agent,
23 or other fiduciary.

24 5. Any funds maintained in a cash deposit arrangement
25 authorized by this section shall not be subject to claims of
26 creditors of the owner or operator and shall otherwise be
27 exempt from setoff, execution, levy, garnishment, and similar
28 writs and proceedings.

29 6. Any funds remaining in a trust, escrow account, or
30 other cash deposit arrangement after the purpose of such cash
31 deposit arrangement under this section has been accomplished

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1 shall be returned to the grantor.

2 (4) The department shall revise chapter 62-673,
3 Florida Administrative Code, to require the owner or operator
4 of a phosphogypsum stack system to demonstrate financial
5 responsibility for the costs of terminal closure of the
6 phosphogypsum stack system in a manner that protects the
7 environment and the public health and safety. At a minimum,
8 such rules shall include or address the following
9 requirements:

10 (a) That the cost of closure and long-term care be
11 re-estimated by a professional engineer and adjusted for
12 inflation on an annual basis. At a minimum, such cost data
13 shall include:

14 1. The cost of treatment and appropriate disposal of
15 all process wastewater, both ponded and pore, in the system.

16 2. All construction work necessary to properly close
17 the system in accordance with department rules.

18 3. All costs associated with long-term care of the
19 closed system, including maintenance and monitoring, in
20 accordance with department rules.

21 (b) That financial statements and financial data be
22 prepared according to generally accepted accounting principles
23 within the United States and submitted quarterly.

24 (c) That audited financial statements be provided
25 annually along with the statement of financial assurance.

26 (d) That any owner or operator in default on any of
27 its obligations report such default immediately.

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