

Bill No. CS for CS for SB 1312

Amendment No.      Barcode 755016

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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2	04/29/2003	.	
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11 Senator Alexander moved the following amendment:

12  
13 **Senate Amendment**

14 On page 22, line 21, through page 23, line 17, delete  
15 those lines

16  
17 and insert:

18 (2) The department shall revise chapter 62-673,  
19 Florida Administrative Code, to require the owner or operator  
20 of a phosphogypsum stack management system to demonstrate  
21 financial responsibility for the costs of terminal closure of  
22 the phosphogypsum stack system in a manner that protects the  
23 public health and safety.

24 (a) The costs of terminal closure shall be estimated  
25 based on the stack system configuration as of the end of its  
26 useful life as determined by the owner or operator.

27 (b) The owner or operator may demonstrate financial  
28 responsibility by use of one or more of the following methods  
29 either alone or in combination: bond, letter of credit, cash  
30 deposit arrangement, closure insurance, financial tests, or  
31 corporate guarantee. For the purposes of this section, a "cash

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1 deposit arrangement" refers to a trust fund, business or  
2 statutory trust, escrow account or similar cash deposit entity  
3 whereby a fiduciary holds and invests funds deposited by the  
4 owner or operator which funds shall be expended only for the  
5 purpose of directly implementing all or some portion of  
6 phosphogypsum stack system closure requirements of that  
7 particular owner or operator.

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

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

27 (e) Any funds maintained in a cash deposit arrangement  
28 authorized by this section shall not be subject to claims of  
29 creditors of the owner or operator and shall otherwise be  
30 exempt from set off, execution, levy, garnishment, and similar  
31 writs and proceedings.

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1           (f) Any funds remaining in a trust, escrow account, or  
2 other cash deposit arrangement after the purpose of such cash  
3 deposit arrangement under this section has been accomplished  
4 shall be returned to the grantor.

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