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1 A bill to be entitled

2 An act relating to phosphate mining; amending s. 373.414,  
3 F.S.; providing additional criteria for activities within  
4 watersheds; revising conditions under which wetlands  
5 reclamation activities for phosphate and heavy minerals  
6 mining are considered appropriate mitigation under pt. IV  
7 of ch. 373, F.S.; providing for applicability of certain  
8 provisions to watersheds rather than drainage basins;  
9 providing additional conditions under which the governing  
10 board of a water management district and the Department of  
11 Environmental Protection shall consider phosphate mining  
12 activities to meet specified cumulative impact  
13 requirements; providing construction; requiring a  
14 cumulative analysis of specified impacts prior to any  
15 modification or expansion of existing phosphate mining  
16 activities and new phosphate mining activities; defining  
17 "prospective phosphate mines"; amending s. 378.035, F.S.;  
18 revising provisions relating to the use of funds within  
19 the Nonmandatory Land Reclamation Trust Fund; removing  
20 obsolete provisions; removing provisions relating to the  
21 deposit and use of funds derived from registration fees  
22 under the phosphogypsum management program; removing  
23 provisions relating to the availability of specified funds  
24 in the event that the nonmandatory land reclamation  
25 program encumbers all the funds in the Nonmandatory Land  
26 Reclamation Trust Fund; amending s. 403.4154, F.S.;  
27 providing financial responsibility requirements for mining  
28 activity and phosphogypsum stack systems; amending s.  
29 403.4155, F.S., relating to rulemaking authority of the  
30 Department of Environmental Protection with respect to



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31 phosphogypsum management; removing obsolete provisions;  
32 providing severability; providing an effective date.  
33

34 Be It Enacted by the Legislature of the State of Florida:  
35

36 Section 1. Subsections (6) and (8) of section 373.414,  
37 Florida Statutes, are amended to read:

38 373.414 Additional criteria for activities within  
39 watersheds ~~in surface waters and wetlands.~~--

40 (6)(a) The Legislature recognizes that some mining  
41 activities that may occur in waters of the state must leave a  
42 deep pit as part of the reclamation. Such deep pits may not meet  
43 the established water quality standard for dissolved oxygen  
44 below the surficial layers. Where such mining activities  
45 otherwise meet the permitting criteria contained in this  
46 section, such activities may be eligible for a variance from the  
47 established water quality standard for dissolved oxygen within  
48 the lower layers of the reclaimed pit.

49 (b) Wetlands reclamation activities for phosphate and  
50 heavy minerals mining undertaken pursuant to chapter 378 shall  
51 be considered appropriate mitigation for this part if they  
52 maintain or improve the water quality and the function of the  
53 biological systems present at the site prior to the commencement  
54 of mining activities, and the requirements of subsection (8) are  
55 met.

56 (c) Wetlands reclamation activities for fuller's earth  
57 mining undertaken pursuant to chapter 378 shall be considered  
58 appropriate mitigation for this part if they maintain or improve  
59 the water quality and the function of the biological systems  
60 present at the site prior to the commencement of mining



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61 activities, unless the site features make such reclamation  
62 impracticable, in which case the reclamation must offset the  
63 regulated activities' adverse impacts on surface waters and  
64 wetlands.

65 (d) Onsite reclamation of the mine pit for limerock and  
66 sand mining shall be conducted in accordance with the  
67 requirements of chapter 378.

68 1. Mitigation activities for limerock and sand mining must  
69 offset the regulated activities' adverse impacts on surface  
70 waters and wetlands. Mitigation activities shall be located on  
71 site, unless onsite mitigation activities are not feasible, in  
72 which case, offsite mitigation as close to the activities as  
73 possible shall be required. However, mitigation banking may be  
74 an acceptable form of mitigation, whether on or off site, as  
75 judged on a case-by-case basis.

76 2. The ratio of mitigation-to-wetlands loss shall be  
77 determined on a case-by-case basis and shall be based on the  
78 quality of the wetland to be impacted and the type of mitigation  
79 proposed.

80 (8)(a) The governing board or the department, in deciding  
81 whether to grant or deny a permit for an activity regulated  
82 under this part shall consider the cumulative impacts upon  
83 surface water and wetlands, as delineated in s. 373.421(1),  
84 within the same drainage basin as defined in s. 373.403(9), of:

85 1. The activity for which the permit is sought.

86 2. Projects which are existing or activities regulated  
87 under this part which are under construction or projects for  
88 which permits or determinations pursuant to s. 373.421 or s.  
89 403.914 have been sought.



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90 3. Activities which are under review, approved, or vested  
91 pursuant to s. 380.06, or other activities regulated under this  
92 part which may reasonably be expected to be located within  
93 surface waters or wetlands, as delineated in s. 373.421(1), in  
94 the same watershed ~~drainage basin as defined in s. 373.403(9)~~,  
95 based upon the comprehensive plans, adopted pursuant to chapter  
96 163, of the local governments having jurisdiction over the  
97 activities, or applicable land use restrictions and regulations.

98 (b) If an applicant proposes mitigation within the same  
99 watershed ~~drainage basin~~ as the adverse impacts to be mitigated,  
100 and if the mitigation offsets these adverse impacts, the  
101 governing board and department shall consider the regulated  
102 activity to meet the cumulative impact requirements of paragraph  
103 (a). However, for phosphate mining activities, an applicant must  
104 also demonstrate that the direct and indirect cumulative impact  
105 of changes in water flows and levels from mining activities,  
106 phosphogypsum stack systems, and associated reclamation  
107 activities will not adversely affect surface water, ground  
108 water, wetland, upland, aquatic, and estuarine habitats, listed  
109 species, and other natural system features within the same  
110 watershed. This paragraph may not be construed to prohibit  
111 mitigation outside the watershed ~~drainage basin~~ which offsets  
112 the adverse impacts within the watershed ~~drainage basin~~.

113 (c) Prior to any modification or expansion of existing  
114 phosphate mining activities and any new phosphate mining  
115 activities, including, but not limited to, approvals, permit  
116 issuance, and any mining activities within the Peace River  
117 Watershed pursuant to this part, or chapter 373, the department  
118 shall require the operator or applicant to complete a cumulative  
119 analysis of the impacts throughout the watershed that may result



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120 from phosphate mining activities, including phosphogypsum stack  
121 system operations and closure, reclamation, and other related  
122 activities on natural systems. Such cumulative analysis shall  
123 evaluate the collective impacts of all permitted and exempt  
124 existing phosphate mines and all prospective mines, including  
125 direct and indirect impacts on: surface waters; ground waters;  
126 upland, wetland, aquatic, and estuarine habitats; listed  
127 species; and other natural system features. For purposes of the  
128 section, prospective phosphate mines include all lands that have  
129 been identified for phosphate mining in any plan completed  
130 pursuant to chapter 163 or chapter 378, or identified for  
131 phosphate mining in any request for approval submitted to any  
132 federal, state, regional or a local government agency, and have  
133 not been permanently excluded from mining by acquisition for  
134 conservation purposes or by conservation easement.

135 Section 2. Section 378.035, Florida Statutes, is amended  
136 to read:

137 378.035 Department responsibilities and duties with  
138 respect to Nonmandatory Land Reclamation Trust Fund.--

139 (1) The department shall administer the Nonmandatory Land  
140 Reclamation Trust Fund.

141 (2)(a) The department shall verify that reclamation  
142 activities or portions thereof have been accomplished in  
143 accordance with the reclamation contract and shall certify the  
144 cost of such reclamation activities to the Comptroller for  
145 reimbursement.

146 (b) Beginning in 1985, the department shall determine the  
147 maximum dollar amount a landowner may be reimbursed per  
148 reclaimed acre under an approved reclamation program.



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149 (c) Nothing in this act precludes a landowner from  
150 performing the reclamation pursuant to the approved reclamation  
151 program, provided the landowner complies with the provisions of  
152 this act.

153 (3) If an applicant who has signed a reclamation contract  
154 abandons the reclamation program prior to substantial completion  
155 of the program, the department may spend the remaining balance  
156 of funds not expended under the contract to complete the  
157 program.

158 (a) The contract amount and any amounts spent by the  
159 department in excess of the remaining balance of the funds under  
160 the contract become a lien upon the property, enforceable  
161 pursuant to chapter 85. The moneys received as a result of a  
162 lien foreclosure or as repayment shall be deposited into the  
163 trust fund.

164 (b) If the land acquired pursuant to the lien foreclosure  
165 has recreational or wildlife value, the department may retain  
166 ownership as with other property acquired pursuant to s.  
167 378.036. If the department sells the property, the department  
168 shall deposit the proceeds of the sale into the trust fund.

169 (4) Interest on moneys deposited in the Nonmandatory Land  
170 Reclamation Trust Fund shall accrue to that fund.

171 (5) ~~On July 1, 2001, \$50 million of the unencumbered~~ Funds  
172 within the Nonmandatory Land Reclamation Trust Fund are also  
173 authorized ~~reserved~~ for use by the department for the following  
174 purposes.

175 (a) ~~These reserved moneys are to be used~~ To reclaim lands  
176 disturbed by the severance of phosphate rock on or after July 1,  
177 1975, in the event that a mining company ceases mining and the  
178 associated reclamation prior to all lands disturbed by the



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179 operation being reclaimed. Moneys expended by the department to  
180 accomplish reclamation pursuant to this subsection shall become  
181 a lien upon the property enforceable pursuant to chapter 85. The  
182 moneys received as a result of a lien foreclosure or as  
183 repayment shall be deposited into the trust fund. In the event  
184 the money received as a result of lien foreclosure or repayment  
185 is less than the amount expended for reclamation, the department  
186 shall use all means available to recover, for the use of the  
187 fund, the difference from the affected parties. Paragraph (3)(b)  
188 shall apply to lands acquired as a result of a lien foreclosure.

189 (b) ~~The department may also expend funds from the \$50~~  
190 ~~million reserve fund~~ For the abatement of an imminent hazard as  
191 provided by s. 403.4154(4)(3) and for the purpose of closing an  
192 abandoned phosphogypsum stack system and carrying out  
193 postclosure care as provided by s. 403.4154(6)(5). Fees  
194 deposited in the Nonmandatory Land Reclamation Trust Fund  
195 pursuant to s. 403.4154(4) may be used for the purposes  
196 authorized in this paragraph. However, such fees may only be  
197 used at a stack system if closure or imminent hazard abatement  
198 activities initially commence on or after July 1, 2002.

199 (6)(a) Up to one-half of the interest income accruing to  
200 the funds reserved by subsection (5) shall be available to the  
201 department annually for the purpose of funding basic management  
202 or protection of reclaimed, restored, or preserved phosphate  
203 lands:

204 1. Which have wildlife habitat value as determined by the  
205 Bureau of Mine Reclamation;

206 2. Which have been transferred by the landowner to a  
207 public agency or a private, nonprofit land conservation and



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208 management entity in fee simple, or which have been made subject  
 209 to a conservation easement pursuant to s. 704.06; and

210 3. For which other management funding options are not  
 211 available.

212  
 213 These funds may, after the basic management or protection has  
 214 been assured for all such lands, be combined with other  
 215 available funds to provide a higher level of management for such  
 216 lands.

217 (b) Up to one-half of the interest income accruing to the  
 218 funds reserved by subsection (5) shall be available to the  
 219 department annually for the sole purpose of funding the  
 220 department's implementation of:

221 1. The NPDES permitting program authorized by s. 403.0885,  
 222 as it applies to phosphate mining and beneficiation facilities,  
 223 phosphate fertilizer production facilities, and phosphate  
 224 loading and handling facilities;

225 2. The regulation of dams in accordance with department  
 226 rule 62-672, Florida Administrative Code; and

227 3. The phosphogypsum management program pursuant to s.  
 228 403.4154 and department rule 62-673, Florida Administrative  
 229 Code.

230  
 231 On or before August 1 of each fiscal year, the department shall  
 232 prepare a report presenting the expenditures using the interest  
 233 income allocated by this section made by the department during  
 234 the immediately preceding fiscal year, which report shall be  
 235 available to the public upon request.

236 ~~(7) Should the nonmandatory land reclamation program~~  
 237 ~~encumber all the funds in the Nonmandatory Land Reclamation~~





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238 ~~Trust Fund except those reserved by subsection (5) prior to~~  
 239 ~~funding all the reclamation applications for eligible parcels,~~  
 240 ~~the funds reserved by subsection (5) shall be available to the~~  
 241 ~~program to the extent required to complete the reclamation of~~  
 242 ~~all eligible parcels for which the department has received~~  
 243 ~~applications.~~

244 (7)~~(8)~~ The department may not accept any applications for  
 245 nonmandatory land reclamation programs after November 1, 2008.

246 (8)~~(9)~~ The Bureau of Mine Reclamation shall review the  
 247 sufficiency of the Nonmandatory Land Reclamation Trust Fund to  
 248 support the stated objectives and report to the secretary  
 249 annually with recommendations as appropriate. The report  
 250 submittal for calendar year 2008 shall specifically address the  
 251 effect of providing a future refund of fees paid pursuant to s.  
 252 403.4154(5)~~(4)~~ following certification of stack closure pursuant  
 253 to department rules, and the report shall be submitted to the  
 254 Governor, the President of the Senate, and the Speaker of the  
 255 House of Representatives on or before March 1, 2009.

256 Section 3. Section 403.4154, Florida Statutes, is amended  
 257 to read:

258 403.4154 Phosphogypsum management program.--

259 (1) DEFINITIONS.--As used in this section, the term:

260 (a) "Department" means the Department of Environmental  
 261 Protection.

262 (b) "Existing stack" means a phosphogypsum stack, as  
 263 defined in paragraph (d), that is:

- 264 1. In existence in this state on May 12, 1993; or
- 265 2. Constructed in this state after May 12, 1993, and for  
 266 which the department has received a certification of completion



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267 of construction submitted by the owner of the newly constructed  
268 phosphogypsum stack.

269

270 The term "existing stack" does not include a phosphogypsum stack  
271 that has been closed pursuant to a department permit or order.

272 (c) "Phosphogypsum" means calcium sulfate and byproducts  
273 produced by the reaction of sulfuric acid with phosphate rock to  
274 produce phosphoric acid.

275 (d) "Phosphogypsum stack" means any defined geographic  
276 area associated with a phosphoric acid production facility in  
277 which phosphogypsum is disposed of or stored, other than within  
278 a fully enclosed building, container, or tank.

279 (e) "Phosphogypsum stack system" means the phosphogypsum  
280 stack, pile, or landfill, together with all pumps, piping,  
281 ditches, drainage conveyances, water-control structures,  
282 collection pools, cooling ponds, surge ponds, and any other  
283 collection or conveyance system associated with the transport of  
284 phosphogypsum from the plant to the phosphogypsum stack, its  
285 management at the stack, and the process-wastewater return to  
286 the phosphoric acid production or other process. This definition  
287 specifically includes toe drain systems and ditches and other  
288 leachate collection systems but does not include conveyances  
289 within the confines of the fertilizer production plant or  
290 existing areas used in emergency circumstances caused by  
291 rainfall events of high volume or duration for the temporary  
292 storage of process wastewater to avoid discharges to surface  
293 waters of the state, which process wastewater must be removed  
294 from the temporary storage area as expeditiously as possible,  
295 but not to exceed 120 days after each emergency.



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296 (f) "Process wastewater" means any water that, during  
297 manufacturing or processing, comes into direct contact with or  
298 results from the production or use of any raw material,  
299 intermediate product, finished product, byproduct, or waste  
300 product, along with any leachate or runoff from the  
301 phosphogypsum stack system. This term does not include  
302 contaminated nonprocess wastewater as that term is defined in 40  
303 C.F.R. part 418.11(c).

304 (2) REGULATORY PROGRAM.--

305 (a) It is the intent of the Legislature that the  
306 department develop a program for the sound and effective  
307 regulation of phosphogypsum stack systems in the state.

308 (b) The department shall adopt rules that prescribe  
309 acceptable construction designs for new or expanded  
310 phosphogypsum stack systems and that prescribe permitting  
311 criteria for operation, closure criteria, long-term-care  
312 requirements, and closure financial responsibility requirements  
313 for phosphogypsum stack systems.

314 (3) FINANCIAL RESPONSIBILITY REQUIREMENTS FOR MINING  
315 ACTIVITY AND PHOSPHOGYPSUM STACK SYSTEMS.--

316 (a) On or before August 1, 2003, there shall be filed with  
317 the department a surety bond in an amount equal to the cost of  
318 closure of all existing mines and phosphogypsum stack systems  
319 including the cost of disposal of all process water for each  
320 permitted, exempt, existing, and approved phosphate mine and  
321 phosphogypsum stack system. For all new mining activity,  
322 phosphogypsum stack systems and expansions of existing  
323 activities and existing phosphogypsum stack systems approved or  
324 permitted after January 1, 2002, in order to receive a permit or  
325 approval, owners or operators shall provide financial



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326 responsibility in the form of a surety bond in favor of the  
327 department that covers the cost of closure for the phosphogypsum  
328 stack system, all mining activities and all reclamation. Cost  
329 of closure shall include, but not be limited to:

330 1. The cost of treatment and appropriate disposal of all  
331 process wastewater, both ponded and pore, in the system;

332 2. All construction work necessary to properly close the  
333 system in accordance with department rules; and

334 3. All costs associated with long-term care of the closed  
335 system, all mining activities, and all reclamation, including  
336 maintenance and monitoring, in accordance with department rules.

337 (4)(3) ABATEMENT OF IMMINENT HAZARD.--

338 (a) The department may take action to abate or  
339 substantially reduce any imminent hazard caused by the physical  
340 condition, maintenance, operation, or closure of a phosphogypsum  
341 stack system.

342 (b) An imminent hazard exists if the physical condition,  
343 maintenance, operation, or closure of a phosphogypsum stack  
344 system creates an immediate and substantial danger to human  
345 health, safety, or welfare or to the environment. A  
346 phosphogypsum stack system is presumed not to cause an imminent  
347 hazard if the physical condition and operation of the system are  
348 in compliance with all applicable department rules.

349 (c) If the department determines that the physical  
350 condition, maintenance, operation, or closure of a phosphogypsum  
351 stack system poses an imminent hazard, the department shall  
352 request access to the property on which such stack system is  
353 located from the owner or operator of the stack system for the  
354 purposes of taking action to abate or substantially reduce the  
355 imminent hazard. If the department, after reasonable effort, is



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356 unable to timely obtain the necessary access to abate or  
357 substantially reduce the imminent hazard, the department may  
358 institute action in its own name, using the procedures and  
359 remedies of s. 403.121 or s. 403.131, to abate or substantially  
360 reduce an imminent hazard. Whenever serious harm to human  
361 health, safety, or welfare, to the environment, or to private or  
362 public property may occur prior to completion of an  
363 administrative hearing or other formal proceeding that might be  
364 initiated to abate the risk of serious harm, the department may  
365 obtain from the court, ex parte, an injunction without paying  
366 filing and service fees prior to the filing and service of  
367 process.

368 (d) To abate or substantially reduce an imminent hazard,  
369 the department may take any appropriate action, including, but  
370 not limited to, using employees of the department or contracting  
371 with other state or federal agencies, with private third-party  
372 contractors, or with the owner or operator of the stack system,  
373 or financing, compensating, or funding a receiver, trustee, or  
374 owner of the stack system, to perform all or part of the work.

375 (e) The department shall recover from the owner or  
376 operator of the phosphogypsum stack system to the use of the  
377 Nonmandatory Land Reclamation Trust Fund all moneys expended  
378 from the fund, including funds expended prior to the effective  
379 date of this section, to abate an imminent hazard posed by the  
380 phosphogypsum stack system plus a penalty equal to an amount  
381 calculated at 30 percent of such funds expended. This penalty  
382 shall be imposed annually, and prorated from the date of payment  
383 from the fund until the expended funds and the penalty are  
384 repaid. If the department prevails in any action to recover  
385 funds pursuant to this subsection, it may recover reasonable



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386 attorney's fees and costs incurred. Phosphogypsum may not be  
387 deposited on a stack until all moneys expended from the fund in  
388 connection with the stack have been repaid, unless the  
389 department determines that such placement is necessary to abate  
390 or avoid an imminent hazard or unless otherwise authorized by  
391 the department.

392 (f) The department may impose a lien on the real property  
393 on which the phosphogypsum stack system that poses an imminent  
394 hazard is located and on the real property underlying and other  
395 assets located at associated phosphate fertilizer production  
396 facilities equal in amount to the moneys expended from the  
397 Nonmandatory Land Reclamation Trust Fund pursuant to paragraph  
398 (d), including attorney's fees and court costs. The owner of any  
399 property on which such a lien is imposed is entitled to a  
400 release of the lien upon payment to the department of the lien  
401 amount. The lien imposed by this section shall have ~~does not~~  
402 ~~take~~ priority over any other ~~prior perfected~~ lien on the real  
403 property, personal property, or other assets referenced in this  
404 paragraph, including, but not limited to, the associated  
405 phosphate rock mine and reserves.

406 (5)~~(4)~~ REGISTRATION FEES.--

407 (a)1. The owner or operator of each existing phosphogypsum  
408 stack who has not provided a performance bond, letter of credit,  
409 trust fund agreement, or closure insurance to demonstrate  
410 financial responsibility for closure and long-term care shall  
411 pay to the department a fee as set forth in this paragraph. All  
412 fees shall be deposited in the Nonmandatory Land Reclamation  
413 Trust Fund.



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414           2. The amount of the fee for each existing stack shall be  
415 \$75,000 for each of the five 12-month periods following July 1,  
416 2001.

417           3. The amount of the fee for any new stack for which the  
418 owner or operator has not provided a performance bond, letter of  
419 credit, trust fund agreement, or closure insurance to  
420 demonstrate financial responsibility for closure and long-term  
421 care shall be \$75,000 for each of the five 12-month periods  
422 following the issuance by the department of a construction  
423 permit for that stack.

424           4. Within 30 days after a phosphogypsum stack has been  
425 certified as closed pursuant to rule 62-673.620(2) and (3),  
426 Florida Administrative Code, the department shall refund to the  
427 owner of the closed phosphogypsum stack an amount from the  
428 Nonmandatory Land Reclamation Trust Fund equal to the total  
429 amount of fee payments made by the owner or operator to the fund  
430 in connection with the closed phosphogypsum stack, except that  
431 any refund becoming payable prior to July 1, 2009, shall be paid  
432 to the owner on or after that date.

433           (b) On or before August 1 of each year, the department  
434 shall provide written notice to each owner of an existing stack  
435 of any fee payable for the 12-month period commencing on the  
436 immediately preceding July 1. Each owner shall remit the fee to  
437 the department on or before August 31 of each year.

438           (6)~~(5)~~ CLOSURE OF ABANDONED SYSTEMS.--

439           (a) The department may expend money from the Nonmandatory  
440 Land Reclamation Trust Fund to take all steps necessary to close  
441 a phosphogypsum stack system and to carry out postclosure care  
442 in accordance with department rules in effect as of the date of  
443 commencement of closure activities, subject to the conditions



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444 set forth in this subsection. To accomplish such closure and  
445 postclosure care, the department may take any appropriate  
446 action, including, but not limited to, using employees of the  
447 department or by contracting with other state or federal  
448 agencies, with private third-party contractors, or with the  
449 owner or operator of the stack system, to perform all or part of  
450 the work.

451 (b) The department may close a phosphogypsum stack system  
452 through agreement with the owner or by court order. In  
453 determining whether closure is appropriate, the court shall  
454 consider whether closing the stack will protect human health,  
455 safety, or welfare or the environment; the useful life of the  
456 stack; the effect of delaying closure on the stability of the  
457 fund; the likelihood that the stack will be operated again; and  
458 any other relevant factors. If the court finds that closure is  
459 appropriate, the court may appoint a receiver to oversee the  
460 closure or shall authorize department employees, agents, and  
461 contractors to enter all land owned by the owner of the  
462 phosphogypsum stack system for the performance of closure and  
463 postclosure activities.

464 (c) The department may impose a lien on the real property  
465 on which a closed phosphogypsum stack system is located and on  
466 the real property underlying and other assets located at its  
467 formerly associated phosphate fertilizer production facilities  
468 equal in amount to the moneys expended from the Nonmandatory  
469 Land Reclamation Trust Fund pursuant to this subsection for  
470 closure and postclosure care. The owner of any property on which  
471 such a lien is imposed is entitled to a release of the lien upon  
472 payment to the department of the lien amount and execution of an  
473 agreement to carry out postclosure care in accordance with





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474 applicable department rules. The lien imposed by this section  
 475 shall have ~~does not take~~ priority over any other ~~prior perfected~~  
 476 lien on the real property, personal property, or other assets  
 477 referenced in this paragraph, including, but not limited to, the  
 478 associated phosphate rock mine and reserves.

479 Section 4. Section 403.4155, Florida Statutes, is amended  
 480 to read:

481 403.4155 Phosphogypsum management; rulemaking authority.--  
 482 ~~(1)~~ The Department of Environmental Protection shall adopt  
 483 rules to amend existing chapter 62-672, Florida Administrative  
 484 Code, to ensure that impoundment structures and water conveyance  
 485 piping systems used in phosphogypsum management are designed and  
 486 maintained to meet critical safety standards. The rules must  
 487 require that any impoundment structure used in a phosphogypsum  
 488 stack system, together with all pumps, piping, ditches, drainage  
 489 conveyances, water control structures, collection pools, cooling  
 490 ponds, surge ponds, and any other collection or conveyance  
 491 system associated with phosphogypsum transport, cooling water,  
 492 or the return of process wastewater, is constructed using sound  
 493 engineering practices and is operated to avoid spills or  
 494 discharges of materials which adversely affect surface or ground  
 495 waters. The rules must require that a phosphogypsum stack system  
 496 owner maintain a log detailing the owner's operating inspection  
 497 schedule, results, and any corrective action taken based on the  
 498 inspection results. The rules must require phosphogypsum stack  
 499 owners to maintain an emergency contingency plan and demonstrate  
 500 the ability to mobilize equipment and manpower to respond to  
 501 emergency situations at phosphogypsum stack systems. The rules  
 502 must establish a reasonable time period not to exceed 12 months



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503 for facilities to meet the provisions of the rules adopted  
 504 pursuant to this section.

505 ~~(2) By January 31, 2002, the department shall review~~  
 506 ~~chapter 62-673, Florida Administrative Code, to determine the~~  
 507 ~~adequacy of the financial responsibility provisions contained in~~  
 508 ~~the rules and shall take any measures necessary to ensure that~~  
 509 ~~the rules provide sound and effective provisions to minimize~~  
 510 ~~risk to the environment and to public health and safety from the~~  
 511 ~~business failure of a phosphogypsum stack system.~~

512 Section 5. If any provision of this act or the application  
 513 thereof to any person or circumstance is held invalid, the  
 514 invalidity shall not affect other provisions or applications of  
 515 the act which can be given effect without the invalid provision  
 516 or application, and to this end the provisions of this act are  
 517 declared severable.

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