



CHAMBER ACTION

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The Committee on Natural Resources recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to phosphate mining; amending s. 211.31, F.S.; providing for the expenses of the administration of the tax on severance of solid minerals, the Land Use Advisory Committee, the reclamation or acquisition of nonmandatory lands, and the Florida Institute of Phosphate Research; amending s. 211.3103, F.S.; revising the distribution of the excise tax on the severance of phosphate rock; setting the tax rate for specified periods; revising provisions with respect to application of the tax to the total production of the producer; revising dates with respect to calculation of the base rate adjustment for phosphate rock; setting a minimum base-rate limit; providing for review of the distribution of the tax by a specified date; amending s. 215.20, F.S.; eliminating the Phosphate Research Trust Fund and the Nonmandatory Land Reclamation Trust Fund from among the enumerated trust funds that contribute to the General Revenue Fund; amending s. 215.22, F.S.; exempting the Phosphate Research Trust Fund, the



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29 Conservation and Recreation Lands Trust Fund, the Minerals Trust
30 Fund, and the Nonmandatory Land Reclamation Trust Fund from
31 contribution to the General Revenue Fund required under s.
32 215.20, F.S.; amending s. 373.414, F.S.; revising conditions
33 under which wetlands reclamation activities for phosphate and
34 heavy minerals mining are considered appropriate mitigation
35 under pt. IV of ch. 373, F.S.; providing additional conditions
36 under which the governing board of a water management district
37 or the Department of Environmental Protection shall consider
38 phosphate mining activities to meet specified cumulative impact
39 requirements; amending s. 378.021, F.S.; requiring the
40 Department of Environmental Protection to amend the master
41 reclamation plan that provides guidelines for the reclamation of
42 specified lands mined or disturbed by the severance of phosphate
43 rock and not subject to mandatory reclamation; providing
44 additional criteria to be included in the amended master
45 reclamation plan; amending s. 378.031, F.S.; clarifying
46 provisions with respect to legislative intent to provide
47 economic incentives for reclamation or acquisition of
48 nonmandatory lands; amending s. 378.035, F.S.; revising
49 provisions relating to the use of funds in the Nonmandatory Land
50 Reclamation Trust Fund; deleting obsolete provisions; deleting
51 provisions relating to the deposit and use of funds derived from
52 registration fees under the phosphogypsum management program;
53 revising the date after which the Department of Environmental
54 Protection may not accept applications for nonmandatory land
55 reclamation programs; eliminating requirements with respect to a
56 specified report of the Bureau of Mine Reclamation; authorizing



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57 | the department to petition the State Board of Administration for
58 | the issuance of bonds; setting a limit on the total amount of
59 | such bonds; providing for use of revenues derived from such
60 | bonds; amending s. 378.036, F.S.; authorizing specified entities
61 | to form a nonprofit corporation the purpose of which includes
62 | creating plans for and assisting in the development of
63 | recreational opportunities on lands mined for phosphate;
64 | providing composition, organization, and responsibilities of the
65 | corporation; requiring a report; providing for dissolution of
66 | the corporation; providing for reversion of funds and tangible
67 | assets of the corporation; amending s. 378.101, F.S.; requiring
68 | the Florida Institute of Phosphate Research to conduct a
69 | specified bench and pilot scale study; providing an
70 | appropriation to fund the study; amending s. 378.212, F.S.;
71 | providing an additional reason for the granting of a variance
72 | from pt. III of ch. 378, F.S., relating to phosphate land
73 | reclamation; creating s. 403.0613, F.S., the "Environmental Good
74 | Samaritan Act"; providing immunity from civil liability for
75 | specified persons and entities in the event of a declared actual
76 | or impending environmental emergency; providing applicability;
77 | creating s. 403.162, F.S.; providing civil remedy to the
78 | Department of Environmental Protection in the event that an
79 | owner or operator fails to abate a release or threatened release
80 | of any hazardous substance, pollutant, or contaminant, or abate
81 | an imminent danger to the environment or to public health, and
82 | the department expends a specified amount on such abatement;
83 | providing procedure and requirements with respect thereto;
84 | amending s. 403.4154, F.S.; providing a third degree felony



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85 | penalty for willfully, knowingly, or with reckless indifference
86 | or gross carelessness issuing dividends or making other
87 | distributions prior to correction of noncompliance with
88 | departmental rules requiring demonstration of financial
89 | responsibility with respect to closure of a phosphogypsum stack
90 | or stack system; providing a specified fine and term of
91 | imprisonment; providing that the failure of an owner or operator
92 | of a phosphogypsum stack system to comply with department rules
93 | requiring demonstration of financial responsibility with respect
94 | to closure may be considered by the department as evidence that
95 | a phosphogypsum stack poses an imminent hazard for purposes of
96 | initiating actions to abate or reduce the hazard; deleting
97 | provisions that provide for the refund of specified fee payments
98 | to the owner of a closed phosphogypsum stack; requiring the
99 | Department of Environmental Protection, by a specified date, to
100 | initiate rulemaking to require that phosphogypsum stack system
101 | operation plans be amended to add an interim stack system
102 | management plan; providing plan requirements; requiring the
103 | department, by a specified date, to initiate rulemaking to
104 | require that general plans and schedules for the closure of
105 | phosphogypsum stack systems include specified components;
106 | requiring the department to revise specified administrative
107 | rules to require the owner or operator of a phosphogypsum stack
108 | system to demonstrate financial responsibility for the costs of
109 | terminal closure in a manner that protects the environment and
110 | the public health and safety; amending s. 403.4155, F.S.;
111 | requiring the Department of Environmental Protection to revise
112 | specified administrative rules to require the owner or operator



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113 of a phosphogypsum stack system to demonstrate financial
 114 responsibility for the costs of terminal closure of the
 115 phosphogypsum stack system in a manner that protects the
 116 environment and the public health and safety; providing minimum
 117 requirements for such rules; providing severability; providing
 118 effective dates.

119
 120 Be It Enacted by the Legislature of the State of Florida:

121
 122 Section 1. Subsection (4) of section 211.31, Florida
 123 Statutes, is amended to read:

124 211.31 Levy of tax on severance of certain solid minerals;
 125 rate, basis, and distribution of tax.--

126 (4) The expenses of administering this part and ss.
 127 378.011, ~~378.021~~, 378.031, and 378.101 shall be borne by all
 128 recipients of distributions from the phosphate severance tax.
 129 The first 1 percent shall be paid to the department prior to the
 130 distribution of funds as provided in s. 211.3103 ~~the Land~~
 131 ~~Reclamation Trust Fund, the Nonmandatory Land Reclamation Trust~~
 132 ~~Fund, and the Phosphate Research Trust Fund.~~

133 Section 2. Section 211.3103, Florida Statutes, is amended
 134 to read:

135 211.3103 Levy of tax on severance of phosphate rock; rate,
 136 basis, and distribution of tax.--

137 (1) There is hereby levied an excise tax upon every person
 138 engaging in the business of severing phosphate rock from the
 139 soils or waters of this state for commercial use. The tax shall
 140 be collected, administered, and enforced by the department.



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141 (2) Beginning July 1, 2003, the proceeds of all taxes,
142 interest, and penalties imposed under this section shall be paid
143 into the State Treasury as follows:

144 (a) The first \$10 million of the revenue collected from
145 the tax during each fiscal year shall be paid to the credit of
146 the Conservation and Recreation Lands Trust Fund.

147 (b) Five million dollars of the revenue collected from the
148 tax during each fiscal year shall be applied to the purchase of
149 a surety bond or a policy of insurance, the proceeds of which
150 would pay the cost of restoration, reclamation, and cleanup of
151 any phosphogypsum stack system and phosphate mining activities
152 in the event that an operator or permittee thereof has been
153 subject to a final order of bankruptcy and all funds available
154 therefrom are determined to be inadequate to accomplish such
155 restoration, reclamation, and cleanup. Nothing in this section
156 shall be construed to imply that such operator or permittee is
157 thereby relieved of its obligations or relieved of any
158 liabilities pursuant to any other remedies at law,
159 administrative remedies, statutory remedies, or remedies
160 pursuant to bankruptcy law. The department shall adopt rules to
161 implement the provisions of this paragraph, including the
162 purchase and oversight of the bond or policy.

163 (c) The remaining revenue collected from the tax during
164 the fiscal year, after the required payment under paragraphs (a)
165 and (b), shall be paid into the State Treasury as follows:

166 1. To the credit of the Nonmandatory Land Reclamation
167 Trust Fund, 51 percent.



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168 2. For payment to counties in proportion to the number of
169 tons of phosphate rock produced from a phosphate rock matrix
170 located within such political boundary, 25 percent. The
171 department shall distribute this portion of the proceeds
172 annually based on production information reported by the
173 producers on the annual returns for the taxable year.

174 3. To the credit of the General Revenue Fund of the state,
175 10 percent or \$12 million, whichever is less.

176 4. To the credit of the Phosphate Research Trust Fund in
177 the Department of Education, Division of Universities, 9 percent
178 or \$2.75 million, whichever is less.

179 5. To the credit of the Minerals Trust Fund, 5 percent or
180 \$3 million, whichever is less.

181 (d) Funds distributed pursuant to subparagraph (c)2. shall
182 be used for the following purposes:

183 1. Planning, preparing, and financing of infrastructure
184 projects for job creation and capital investment, especially
185 those infrastructure projects related to industrial and
186 commercial sites. Infrastructure investments may include the
187 following public or public-private partnership facilities:

188 a. Stormwater systems;

189 b. Telecommunications facilities;

190 c. Roads or other remedies to transportation impediments;

191 d. Nature-based tourism facilities; or

192 e. Other physical requirements necessary to facilitate
193 trade and economic development activities.



194 2. Maximizing the use of federal, local, and private
 195 resources, including, but not limited to, those available under
 196 the Small Cities Community Development Block Grant Program.

197 3. Projects that improve inadequate infrastructure that
 198 has resulted in regulatory action that prohibits economic or
 199 community growth, provided such projects are related to specific
 200 job creation or job retention opportunities.

201 ~~(2) The proceeds of all taxes, interest, and penalties~~
 202 ~~imposed under this section shall be paid into the State Treasury~~
 203 ~~through June 30, 1995, as follows:~~

204 ~~(a) The first \$10 million in revenue collected from the~~
 205 ~~tax during each fiscal year shall be paid to the credit of the~~
 206 ~~Conservation and Recreation Lands Trust Fund.~~

207 ~~(b) The remaining revenues collected from the tax during~~
 208 ~~that fiscal year, after the required payment under paragraph~~
 209 ~~(a), shall be paid into the State Treasury as follows:~~

210 ~~1. To the credit of the General Revenue Fund of the state,~~
 211 ~~60 percent. However, from this amount the amounts of \$7.4~~
 212 ~~million, \$8.2 million, and \$8.1 million, respectively, shall be~~
 213 ~~transferred to the Nonmandatory Land Reclamation Trust Fund on~~
 214 ~~January 1, 1993, January 1, 1994, and January 1, 1995.~~

215 ~~2. To the credit of the Nonmandatory Land Reclamation~~
 216 ~~Trust Fund which is established for reclamation and acquisition~~
 217 ~~of unreclaimed lands disturbed by phosphate mining and not~~
 218 ~~subject to mandatory reclamation, 20 percent.~~

219 ~~3. To the credit of the Phosphate Research Trust Fund in~~
 220 ~~the Department of Education, Division of Universities, to carry~~
 221 ~~out the purposes set forth in s. 378.101, 10 percent.~~



222 ~~4. For payment to counties in proportion to the number of~~
 223 ~~tons of phosphate rock produced from a phosphate rock matrix~~
 224 ~~located within such political boundary, 10 percent. The~~
 225 ~~department shall distribute this portion of the proceeds~~
 226 ~~annually based on production information reported by producers~~
 227 ~~on the annual returns for the taxable year. Any such proceeds~~
 228 ~~received by a county shall be used only for phosphate-related~~
 229 ~~expenses.~~

230 ~~(3) Beginning July 1, 1995, the proceeds of all taxes,~~
 231 ~~interest, and penalties imposed under this section shall be paid~~
 232 ~~into the State Treasury as follows:~~

233 ~~(a) The first \$10 million in revenue collected from the~~
 234 ~~tax during each fiscal year shall be paid to the credit of the~~
 235 ~~Conservation and Recreation Lands Trust Fund.~~

236 ~~(b) The remaining revenues collected from the tax during~~
 237 ~~that fiscal year, after the required payment under paragraph~~
 238 ~~(a), shall be paid into the State Treasury as follows:~~

239 ~~1. To the credit of the General Revenue Fund of the state,~~
 240 ~~58 percent.~~

241 ~~2. To the credit of the Nonmandatory Land Reclamation~~
 242 ~~Trust Fund for reclamation and acquisition of unreclaimed lands~~
 243 ~~disturbed by phosphate mining and not subject to mandatory~~
 244 ~~reclamation, 14.5 percent.~~

245 ~~3. To the credit of the Phosphate Research Trust Fund in~~
 246 ~~the Department of Education, Division of Universities, to carry~~
 247 ~~out the purposes set forth in s. 378.101, 10 percent.~~

248 ~~4. For payment to counties in proportion to the number of~~
 249 ~~tons of phosphate rock produced from a phosphate rock matrix~~



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250 ~~located within such political boundary, 10 percent. The~~
251 ~~department shall distribute this portion of the proceeds~~
252 ~~annually based on production information reported by producers~~
253 ~~on the annual returns for the taxable year. Any such proceeds~~
254 ~~received by a county shall be used only for phosphate-related~~
255 ~~expenses.~~

256 ~~5. To the credit of the Minerals Trust Fund, 7.5 percent.~~

257 ~~(4) If the base rate is reduced pursuant to paragraph~~
258 ~~(5)(c), then the proceeds of the tax shall be paid into the~~
259 ~~State Treasury as follows:~~

260 ~~(a) The first \$10 million in revenue collected from the~~
261 ~~tax during each fiscal year shall be paid to the credit of the~~
262 ~~Conservation and Recreation Lands Trust Fund.~~

263 ~~(b) The remaining revenues collected from the tax during~~
264 ~~that fiscal year, after the required payment under paragraph~~
265 ~~(a), shall be paid into the State Treasury as follows:~~

266 ~~1. To the credit of the General Revenue Fund of the state,~~
267 ~~55.15 percent.~~

268 ~~2. To the credit of the Phosphate Research Trust Fund in~~
269 ~~the Department of Education, Division of Universities, 12.5~~
270 ~~percent.~~

271 ~~3. For payment to counties in proportion to the number of~~
272 ~~tons of phosphate rock produced from a phosphate rock matrix~~
273 ~~located within such political boundary, 18 percent. The~~
274 ~~department shall distribute this portion of the proceeds~~
275 ~~annually based on production information reported by producers~~
276 ~~on the annual returns for the taxable year. Any such proceeds~~



277 ~~received by a county shall be used only for phosphate-related~~
 278 ~~expenses.~~

279 ~~4. To the credit of the Minerals Trust Fund, 14.35~~
 280 ~~percent.~~

281 (3) Beginning July 1, 2003, the tax rate shall be the base
 282 rate of \$1.62 per ton severed.

283 (4) Beginning July 1, 2004, and annually thereafter, the
 284 tax rate shall be the base rate times the base rate adjustment
 285 of the tax years as calculated by the department in accordance
 286 with subsection (6).

287 (5) The excise tax levied by this section shall apply to
 288 the total production of the producer during the taxable year,
 289 measured on the basis of bone-dry tons produced at the point of
 290 severance, ~~subject to the following rates:~~

291 ~~(a) Beginning July 1, 1987, to December 31, 1987, the tax~~
 292 ~~rate shall be \$1.79 per ton severed.~~

293 ~~(b) For 1988, the tax rate shall be the base rate of \$1.35~~
 294 ~~per ton severed.~~

295 ~~(c) For 1989 and subsequent years, the tax rate shall be~~
 296 ~~the base rate times the base rate adjustment for the tax year as~~
 297 ~~ealculated by the department in accordance with subsection (6).~~
 298 ~~However, for 2000 and subsequent taxable years, the base rate~~
 299 ~~shall be reduced by 20 percent, unless additional funding of the~~
 300 ~~Nonmandatory Land Reclamation Trust Fund is approved by law.~~

301 (6)(a) On or before March 30, 2004 ~~1989~~, and annually
 302 thereafter, the department shall calculate the base rate
 303 adjustment, if any, for phosphate rock based on the change in
 304 the unadjusted annual producer price index for the prior



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305 | calendar year in relation to the unadjusted annual producer
306 | price index for calendar year 1999 ~~1987~~.

307 | (b) For the purposes of determining the base rate
308 | adjustment for any year, the base rate adjustment shall be a
309 | fraction, the numerator of which is the unadjusted annual
310 | producer price index for the prior calendar year and the
311 | denominator of which is the unadjusted annual producer price
312 | index for calendar year 1999 ~~1987~~.

313 | (c) The department shall provide the base rate, the base
314 | rate adjustment, and the resulting tax rate to affected
315 | producers by written notice on or before April 15 of the current
316 | year.

317 | (d) If the producer price index for phosphate rock primary
318 | products is substantially revised, the department shall make
319 | appropriate adjustment in the method used to compute the base
320 | rate adjustment under this subsection which will produce results
321 | reasonably consistent with the result which would have been
322 | obtained if the producer price index for phosphate rock primary
323 | products had not been revised. However, the base rate shall not
324 | be less than \$1.56 per ton severed.

325 | (e) In the event the producer price index for phosphate
326 | rock primary products is discontinued, then a comparable index
327 | shall be selected by the department and adopted by rule.

328 | (7) The excise tax levied on the severance of phosphate
329 | rock shall be in addition to any ad valorem taxes levied upon
330 | the separately assessed mineral interest in the real property
331 | upon which the site of severance is located, or any other tax,



332 permit, or license fee imposed by the state or its political
333 subdivisions.

334 (8) The tax levied by this section shall be collected in
335 the manner prescribed in s. 211.33.

336 (9) The provisions of subsection (2) shall be reviewed by
337 the legislature prior to July 1, 2006. Should no change to the
338 provisions in subsection (2) be made prior to July 1, 2006, the
339 provisions in subsection (2) shall remain in effect.

340 Section 3. Paragraphs (i) and (k) of subsection (4) of
341 section 215.20, Florida Statutes, are amended to read:

342 215.20 Certain income and certain trust funds to
343 contribute to the General Revenue Fund.--

344 (4) The income of a revenue nature deposited in the
345 following described trust funds, by whatever name designated, is
346 that from which the appropriations authorized by subsection (3)
347 shall be made:

- 348 (i) Within the Department of Education, +
349 ~~1.~~ the Educational Certification and Service Trust Fund.
350 ~~2. The Phosphate Research Trust Fund.~~

- 351 (k) Within the Department of Environmental Protection:
352 1. The Administrative Trust Fund.
353 2. The Air Pollution Control Trust Fund.
354 3. The Conservation and Recreation Lands Trust Fund.
355 4. The Ecosystem Management and Restoration Trust Fund.
356 5. The Environmental Laboratory Trust Fund.
357 6. The Florida Coastal Protection Trust Fund.
358 7. The Florida Permit Fee Trust Fund.
359 8. The Forfeited Property Trust Fund.



- 360 9. The Grants and Donations Trust Fund.
- 361 10. The Inland Protection Trust Fund.
- 362 11. The Internal Improvement Trust Fund.
- 363 12. The Land Acquisition Trust Fund.
- 364 13. The Minerals Trust Fund.
- 365 ~~14. The Nonmandatory Land Reclamation Trust Fund.~~
- 366 14.15. The State Park Trust Fund.
- 367 15.16. The Water Quality Assurance Trust Fund.
- 368 16.17. The Working Capital Trust Fund.

369
370 The enumeration of the foregoing moneys or trust funds shall not
371 prohibit the applicability thereto of s. 215.24 should the
372 Governor determine that for the reasons mentioned in s. 215.24
373 the money or trust funds should be exempt herefrom, as it is the
374 purpose of this law to exempt income from its force and effect
375 when, by the operation of this law, federal matching funds or
376 contributions or private grants to any trust fund would be lost
377 to the state.

378 Section 4. Effective July 1, 2003, paragraphs (h) and (i)
379 of subsection (4) of section 215.20, Florida Statutes, are
380 amended, and paragraphs (j) through (ii) of said subsection are
381 redesignated as paragraphs (h) through (gg), respectively, to
382 read:

383 215.20 Certain income and certain trust funds to
384 contribute to the General Revenue Fund.--

385 (4) The income of a revenue nature deposited in the
386 following described trust funds, by whatever name designated, is



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387 that from which the deductions authorized by subsection (3)
388 shall be made:

389 ~~(h) The Phosphate Research Trust Fund established pursuant~~
390 ~~to s. 211.3103.~~

391 ~~(i) The Land Reclamation Trust Fund established pursuant~~
392 ~~to s. 211.32(1)(f).~~

393

394 The enumeration of the foregoing moneys or trust funds shall not
395 prohibit the applicability thereto of s. 215.24 should the
396 Governor determine that for the reasons mentioned in s. 215.24
397 the money or trust funds should be exempt herefrom, as it is the
398 purpose of this law to exempt income from its force and effect
399 when, by the operation of this law, federal matching funds or
400 contributions or private grants to any trust fund would be lost
401 to the state.

402 Section 5. Section 215.22, Florida Statutes, is amended to
403 read:

404 215.22 Certain income and certain trust funds exempt.--

405 (1) The following income of a revenue nature or the
406 following trust funds shall be exempt from the appropriation
407 required by s. 215.20(1):

408 (a) Student financial aid or prepaid tuition receipts.

409 (b) Trust funds administered by the Department of the
410 Lottery.

411 (c) Departmental administrative assessments for
412 administrative divisions.

413 (d) Funds charged by a state agency for services provided
414 to another state agency, by a state agency for services provided



415 | to the judicial branch, or by the judicial branch for services
416 | provided to a state agency.

417 | (e) State, agency, or political subdivision investments by
418 | the Treasurer.

419 | (f) Retirement or employee benefit funds.

420 | (g) Self-insurance programs administered by the Treasurer.

421 | (h) Funds held for the payment of citrus canker
422 | eradication and compensation.

423 | (i) Medicaid, Medicare, or third-party receipts for client
424 | custodial care.

425 | (j) Bond proceeds or revenues dedicated for bond
426 | repayment, except for the Documentary Stamp Clearing Trust Fund
427 | administered by the Department of Revenue.

428 | (k) Trust funds administered by the Department of
429 | Education, including the Phosphate Research Trust Fund.

430 | (l) Trust funds administered by the Department of
431 | Transportation.

432 | (m) The following trust funds administered by the
433 | Department of Agriculture and Consumer Services:

- 434 | 1. The Citrus Inspection Trust Fund.
- 435 | 2. The Florida Forever Program Trust Fund.
- 436 | 3. The Florida Preservation 2000 Trust Fund.
- 437 | 4. The Market Improvements Working Capital Trust Fund.
- 438 | 5. The Pest Control Trust Fund.
- 439 | 6. The Plant Industry Trust Fund.
- 440 | (n) The Motor Vehicle License Clearing Trust Fund.
- 441 | (o) The Solid Waste Management Trust Fund.
- 442 | (p) The Coconut Grove Playhouse Trust Fund.



443 (q) The Communications Working Capital Trust Fund of the
444 Department of Management Services.

445 (r) The Camp Blanding Management Trust Fund.

446 (s) That portion of the Highway Safety Operating Trust
447 Fund funded by the motorcycle safety education fee collected
448 pursuant to s. 320.08(1)(c).

449 (t) Tobacco Settlement Trust Funds administered by any
450 agency.

451 (u) The Save Our Everglades Trust Fund.

452 (v) The Florida Center for Nursing Trust Fund.

453 (w) The Conservation and Recreation Lands Trust Fund.

454 (x) The Minerals Trust Fund.

455 (y) The Nonmandatory Land Reclamation Trust Fund.

456 (2) Moneys and income of a revenue nature shared with
457 political subdivisions or received from taxes or fees authorized
458 to be levied by any political subdivision shall be exempt from
459 the deduction required by s. 215.20(1).

460 (3) In addition to the exemptions enumerated in
461 subsections (1) and (2), the Executive Office of the Governor is
462 authorized to exempt any income when, by the operation of this
463 law and pursuant to s. 215.24, federal matching funds or
464 contributions or private grants to any trust fund would be lost
465 to the state.

466 (4) Notwithstanding the exemptions granted in subsections
467 (1), (2), and (3), this section shall not exempt income of a
468 revenue nature or any trust fund which was subject to the
469 service charge pursuant to s. 215.20 on January 1, 1990. This
470 subsection shall not apply to the Phosphate Research Trust Fund,



471 | the Conservation and Recreation Lands Trust Fund, the Minerals
 472 | Trust Fund, or the Nonmandatory Land Reclamation Trust Fund.

473 | Section 6. Effective July 1, 2003, subsection (1) of
 474 | section 215.22, Florida Statutes, is amended to read:

475 | 215.22 Certain income and certain trust funds exempt.--

476 | (1) The following income of a revenue nature or the
 477 | following trust funds shall be exempt from the deduction
 478 | required by s. 215.20(1):

479 | (a) Student financial aid or prepaid tuition receipts.

480 | (b) Trust funds administered by the Department of the
 481 | Lottery.

482 | (c) Departmental administrative assessments for
 483 | administrative divisions.

484 | (d) Funds charged by a state agency for services provided
 485 | to another state agency, by a state agency for services provided
 486 | to the judicial branch, or by the judicial branch for services
 487 | provided to a state agency.

488 | (e) State, agency, or political subdivision investments by
 489 | the Treasurer.

490 | (f) Retirement or employee benefit funds.

491 | (g) Self-insurance programs administered by the Treasurer.

492 | (h) Funds held for the payment of citrus canker
 493 | eradication and compensation.

494 | (i) Medicaid, Medicare, or third-party receipts for client
 495 | custodial care.

496 | (j) Bond proceeds or revenues dedicated for bond
 497 | repayment, except for the Documentary Stamp Clearing Trust Fund
 498 | administered by the Department of Revenue.



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- 499 (k) Trust funds administered by the Department of
- 500 Education, including the Phosphate Research Trust Fund.
- 501 (l) Trust funds administered by the Department of
- 502 Transportation.
- 503 (m) Trust funds administered by the Department of
- 504 Agriculture and Consumer Services.
- 505 (n) The Motor Vehicle License Clearing Trust Fund.
- 506 (o) The Solid Waste Management Trust Fund.
- 507 (p) The Coconut Grove Playhouse Trust Fund.
- 508 (q) The Communications Working Capital Trust Fund of the
- 509 Department of Management Services.
- 510 (r) The Camp Blanding Management Trust Fund.
- 511 (s) The Indigent Criminal Defense Trust Fund.
- 512 (t) That portion of the Highway Safety Operating Trust
- 513 Fund funded by the motorcycle safety education fee collected
- 514 pursuant to s. 320.08(1)(c).
- 515 (u) The Save the Manatee Trust Fund.
- 516 (v) Tobacco Settlement Trust Funds administered by any
- 517 agency.
- 518 (w) The Save Our Everglades Trust Fund.
- 519 (x) The Florida Center for Nursing Trust Fund.
- 520 (y) The Conservation and Recreation Lands Trust Fund.
- 521 (z) The Minerals Trust Fund.
- 522 (aa) The Nonmandatory Land Reclamation Trust Fund.
- 523 Section 7. Subsections (6) and (8) of section 373.414,
- 524 Florida Statutes, are amended to read:
- 525 373.414 Additional criteria for activities in surface
- 526 waters and wetlands.--



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527 (6)(a) The Legislature recognizes that some mining
528 activities that may occur in waters of the state must leave a
529 deep pit as part of the reclamation. Such deep pits may not meet
530 the established water quality standard for dissolved oxygen
531 below the surficial layers. Where such mining activities
532 otherwise meet the permitting criteria contained in this
533 section, such activities may be eligible for a variance from the
534 established water quality standard for dissolved oxygen within
535 the lower layers of the reclaimed pit.

536 (b) Wetlands reclamation activities for phosphate and
537 heavy minerals mining undertaken pursuant to chapter 378 shall
538 be considered appropriate mitigation for this part if they
539 maintain or improve the water quality and the function of the
540 biological systems present at the site prior to the commencement
541 of mining activities and the requirements of subsection (8) are
542 met.

543 (c) Wetlands reclamation activities for fuller's earth
544 mining undertaken pursuant to chapter 378 shall be considered
545 appropriate mitigation for this part if they maintain or improve
546 the water quality and the function of the biological systems
547 present at the site prior to the commencement of mining
548 activities, unless the site features make such reclamation
549 impracticable, in which case the reclamation must offset the
550 regulated activities' adverse impacts on surface waters and
551 wetlands.

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



555 | 1. Mitigation activities for limerock and sand mining must
 556 | offset the regulated activities' adverse impacts on surface
 557 | waters and wetlands. Mitigation activities shall be located on
 558 | site, unless onsite mitigation activities are not feasible, in
 559 | which case, offsite mitigation as close to the activities as
 560 | possible shall be required. However, mitigation banking may be
 561 | an acceptable form of mitigation, whether on or off site, as
 562 | judged on a case-by-case basis.

563 | 2. The ratio of mitigation-to-wetlands loss shall be
 564 | determined on a case-by-case basis and shall be based on the
 565 | quality of the wetland to be impacted and the type of mitigation
 566 | proposed.

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

- 572 | 1. The activity for which the permit is sought.
- 573 | 2. Projects which are existing or activities regulated
 574 | under this part which are under construction or projects for
 575 | which permits or determinations pursuant to s. 373.421 or s.
 576 | 403.914 have been sought.

577 | 3. Activities which are under review, approved, or vested
 578 | pursuant to s. 380.06, or other activities regulated under this
 579 | part which may reasonably be expected to be located within
 580 | surface waters or wetlands, as delineated in s. 373.421(1), in
 581 | the same drainage basin as defined in s. 373.403(9), based upon
 582 | the comprehensive plans, adopted pursuant to chapter 163, of the



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583 local governments having jurisdiction over the activities, or
584 applicable land use restrictions and regulations.

585 (b) If an applicant proposes mitigation within the same
586 drainage basin as the adverse impacts to be mitigated, and if
587 the mitigation offsets these adverse impacts, the governing
588 board and department shall consider the regulated activity to
589 meet the cumulative impact requirements of paragraph (a).
590 However, for phosphate mining activities, an applicant must also
591 demonstrate that the direct and indirect cumulative impact of
592 changes in water flows and levels from mining activities,
593 including clay settling areas, and associated reclamation
594 activities will not adversely affect surface water and
595 groundwater levels so as to adversely affect the functions of
596 surface waters and wetlands, including wetland, aquatic, and
597 estuarine habitats, including listed species, both within the
598 watershed and drainage basin of the proposed activity. This
599 paragraph may not be construed to prohibit mitigation outside
600 the drainage basin which offsets the adverse impacts within the
601 drainage basin.

602 Section 8. Section 378.021, Florida Statutes, is amended
603 to read:

604 378.021 Master reclamation plan.--

605 (1) The Department of Environmental Protection ~~Natural~~
606 ~~Resources~~ shall amend the ~~adopt by rule, as expeditiously as~~
607 ~~possible upon receipt of the report of the Land Use Advisory~~
608 ~~Committee,~~ a master reclamation plan that provides ~~to provide~~
609 guidelines for the reclamation of lands mined or disturbed by
610 the severance of phosphate rock prior to July 1, 1975, which



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611 lands are not subject to mandatory reclamation under part II of
612 chapter 211. In amending the ~~developing said~~ master reclamation
613 plan, the Department of Environmental Protection ~~Natural~~
614 ~~Resources~~ shall continue to conduct an onsite evaluation of all
615 lands mined or disturbed by the severance of phosphate rock
616 prior to July 1, 1975, which lands are not subject to mandatory
617 reclamation under part II of chapter 211, and shall consider the
618 report and plan prepared by the Land Use Advisory Committee
619 under s. 378.011 and submitted to the former Department of
620 Natural Resources for adoption by rule on or before July 1,
621 1979. The master reclamation plan, when amended ~~adopted~~ by the
622 Department of Environmental Protection, ~~Natural Resources~~ shall
623 be consistent with local government plans prepared pursuant to
624 the Local Government Comprehensive Planning and Land Development
625 Regulation Act.

626 (2) The amended master reclamation plan shall identify
627 which of the lands mined or disturbed by the severance of
628 phosphate rock prior to July 1, 1975, meet the following
629 criteria:

630 (a) The quality of surface waters leaving the land does
631 not meet applicable water quality standards, if any; or, health
632 and safety hazards exist on the land; or, the soil has not
633 stabilized and revegetated; or, the remaining natural resources
634 associated with the land are not being conserved;

635 (b) The environmental or economic utility or aesthetic
636 value of the land would not naturally return within a reasonable
637 time, and reclamation would substantially promote the



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638 environmental or economic utility or the aesthetic value of the
639 land; ~~and~~

640 (c) The reclamation of the land is in the public interest
641 because the reclamation, when combined with other reclamation
642 under the master plan, would provide a substantial regional
643 benefit; and

644 (d) The reclamation of the land is in the public interest
645 because the reclamation, when combined with other reclamation
646 under the master plan, will provide significant benefits to
647 surface water bodies supplying water for environmental and
648 public purposes in those areas of the state where phosphate
649 mining has been permitted.

650 (3) Lands evaluated by the department under subsection (1)
651 which meet the criteria set forth in subsection (2) shall be
652 identified with specificity in the master reclamation plan.
653 Lands evaluated by the department under subsection (1) which do
654 not meet the criteria set forth in subsection (2) shall also be
655 identified with specificity in the master reclamation plan as
656 lands which are acceptable in their present form.

657 (4) Upon adoption of the amendments to the master
658 reclamation plan as a rule, such plan shall provide the
659 guidelines for approval of reclamation programs for lands
660 covered in the plan, recognizing that reclamation of such lands
661 is not mandatory, but that any payment of costs expended for
662 reclamation paid under s. 378.031 shall be contingent upon
663 conformity with the guidelines set forth in the master
664 reclamation plan.



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665 Section 9. Section 378.031, Florida Statutes, is amended
666 to read:

667 378.031 Reclamation or acquisition of nonmandatory lands;
668 legislative intent.--It is the intent of the Legislature to
669 provide an economic incentive to encourage the reclamation of
670 the maximum number of acres of eligible nonmandatory lands in
671 the most timely and efficient manner or the donation or purchase
672 of nonmandatory lands, especially those lands for which
673 reclamation activities will result in significant improvements
674 to surface water bodies of regional importance in those areas of
675 the state where phosphate mining has been permitted. The
676 Legislature recognizes that certain lands mined or disturbed
677 prior to July 1, 1975, have been naturally reclaimed.

678 Section 10. Subsections (5), (8), and (9) of section
679 378.035, Florida Statutes, are amended, and subsection (10) is
680 added to said section, to read:

681 378.035 Department responsibilities and duties with
682 respect to Nonmandatory Land Reclamation Trust Fund.--

683 (5) ~~On July 1, 2001, \$50 million of the unencumbered~~ Funds
684 within the Nonmandatory Land Reclamation Trust Fund are also
685 authorized reserved for use by the department for the following
686 purposes:-

687 (a) ~~These reserved moneys are to be used~~ To reclaim lands
688 disturbed by the severance of phosphate rock on or after July 1,
689 1975, in the event that a mining company ceases mining and the
690 associated reclamation prior to all lands disturbed by the
691 operation being reclaimed. Moneys expended by the department to
692 accomplish reclamation pursuant to this subsection shall become



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693 a lien upon the property enforceable pursuant to chapter 85. The
 694 moneys received as a result of a lien foreclosure or as
 695 repayment shall be deposited into the trust fund. In the event
 696 the money received as a result of lien foreclosure or repayment
 697 is less than the amount expended for reclamation, the department
 698 shall use all means available to recover, for the use of the
 699 fund, the difference from the affected parties. Paragraph (3)(b)
 700 shall apply to lands acquired as a result of a lien foreclosure.

701 (b) ~~The department may also expend funds from the \$50~~
 702 ~~million reserve fund~~ For the abatement of an imminent hazard as
 703 provided by s. 403.4154(3) and for the purpose of closing an
 704 abandoned phosphogypsum stack system and carrying out
 705 postclosure care as provided by s. 403.4154(5). ~~Fees deposited~~
 706 ~~in the Nonmandatory Land Reclamation Trust Fund pursuant to s.~~
 707 ~~403.4154(4) may be used for the purposes authorized in this~~
 708 ~~paragraph. However, such fees may only be used at a stack system~~
 709 ~~if closure or imminent hazard abatement activities initially~~
 710 ~~commence on or after July 1, 2002.~~

711 (8) The department may not accept any applications for
 712 nonmandatory land reclamation programs after July 1, 2004
 713 ~~November 1, 2008.~~

714 (9) The Bureau of Mine Reclamation shall review the
 715 sufficiency of the Nonmandatory Land Reclamation Trust Fund to
 716 support the stated objectives and report to the secretary
 717 annually with recommendations as appropriate. ~~The report~~
 718 ~~submittal for calendar year 2008 shall specifically address the~~
 719 ~~effect of providing a future refund of fees paid pursuant to s.~~
 720 ~~403.4154(4) following certification of stack closure pursuant to~~



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721 ~~department rules, and the report shall be submitted to the~~
722 ~~Governor, the President of the Senate, and the Speaker of the~~
723 ~~House of Representatives on or before March 1, 2009.~~

724 (10) The department may, upon its determination, petition
725 the State Board of Administration for the issuance of bonds to
726 carry out its responsibilities pursuant to paragraph (5)(b). The
727 total amount of bonds issued pursuant to this subsection may not
728 exceed \$25 million. Revenues credited to the Nonmandatory Land
729 Reclamation Trust Fund shall be used to fund any issuance or
730 debt obligations.

731 Section 11. Subsection (6) is added to section 378.036,
732 Florida Statutes, to read:

733 378.036 Land acquisitions financed by Nonmandatory Land
734 Reclamation Trust Fund moneys.--

735 (6)(a) By January 1, 2004, or within 6 months after the
736 date on which funds become available from the Legislature,
737 whichever is later, the Florida Wildlife Federation, Audubon
738 Florida, and Rails-to-Trails Conservancy, in partnership with
739 the Florida Phosphate Council, are authorized to form a
740 nonprofit corporation pursuant to chapter 617 for the purpose of
741 implementing the provisions of this section by creating plans
742 and assisting in the development of recreational opportunities
743 on lands mined for phosphate in the state. The first plans
744 created by the corporation shall concentrate on recreational
745 activities in Hardee and Hamilton Counties that will assist
746 those counties in rural economic development.

747 (b) The board of directors of the corporation shall be
748 composed of three members. One member shall be designated by the



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749 Florida Phosphate Council, one member shall be designated
750 jointly by the Florida Wildlife Federation, Audubon Florida, and
751 Rails-to-Trails Conservancy, and one member shall be chosen by
752 the other two designees.

753 (c) The business of the corporation shall be conducted by
754 the board of directors or a chief executive officer as the board
755 sees fit in accordance with the provisions of its articles of
756 incorporation and applicable law. The activities of the
757 corporation shall be coordinated with all landowners who have
758 voluntarily agreed to participate in the process as well as any
759 local government where relevant lands are recorded.

760 (d) An annual report of the activities of the corporation,
761 including a certified audit, shall be presented to the secretary
762 of the Department of Environmental Protection or the secretary's
763 designee by October 31 of each year following its incorporation.

764 (e) The corporation shall dissolve on January 1, 2009,
765 unless dissolved previously by action of its board of directors
766 or extended by the Legislature. Upon dissolution, any moneys
767 remaining in the accounts of the corporation that are
768 unobligated shall be returned to the funds from which they were
769 appropriated in proportion to the amount contributed. All
770 tangible assets of the corporation at dissolution that were
771 acquired using state funding shall become the property of the
772 Department of Environmental Protection.

773 Section 12. Subsection (5) is added to section 378.101,
774 Florida Statutes, to read:

775 378.101 Florida Institute of Phosphate Research.--



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776 (5) The Florida Institute of Phosphate Research shall
777 conduct a bench and pilot scale study of the institute's
778 dewatering instantaneously with pulp recycle process for the
779 purpose of determining its technical and economic feasibility.
780 The study shall evaluate the availability, technical
781 feasibility, and cost of using various types of fiber,
782 including, but not limited to, paper and sewage sludge. The
783 study shall evaluate the technical feasibility and practicality
784 of various methods of using and disposing of the clay/fiber
785 product produced, including admixing the product with soil.

786 Section 13. For fiscal year 2003-2004, the sum of \$800,000
787 is appropriated to the Phosphate Research Trust Fund from the
788 proceeds of the phosphate severance tax prior to distribution of
789 funds as specified by s. 211.3103, Florida Statutes, to fund the
790 study required under s. 378.101(5), Florida Statutes.

791 Section 14. Paragraph (g) is added to subsection (1) of
792 section 378.212, Florida Statutes, to read:

793 378.212 Variances.--

794 (1) Upon application, the secretary may grant a variance
795 from the provisions of this part or the rules adopted pursuant
796 thereto. Variances and renewals thereof may be granted for any
797 one of the following reasons:

798 (g) To accommodate reclamation that provides for water
799 supply development or water resource development, consistent
800 with the applicable regional water supply plan approved pursuant
801 to s. 373.0361, appropriate stormwater management, wildlife
802 habitat, or recreation, provided regional water resources are
803 not adversely affected.



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804 Section 15. Section 403.0613, Florida Statutes, is created
805 to read:

806 403.0613 Environmental Good Samaritan Act.--

807 (1) Upon declaration by the Governor and the Cabinet of an
808 actual or impending environmental emergency, any person or
809 entity acting under the direction of the Department of
810 Environmental Protection shall be immune from civil liability
811 for any act or omission not constituting gross negligence in the
812 course of rendering such assistance.

813 (2) Persons or entities under contract with the Department
814 of Environmental Protection who provide expeditious professional
815 assistance to prevent, take action regarding, or clean up a
816 declared environmental emergency shall also be immune from civil
817 liability.

818 (3) The immunity provided by this section does not apply
819 to damages as a result of any act or omission unrelated to the
820 original emergency.

821 Section 16. Section 403.162, Florida Statutes, is created
822 to read:

823 403.162 Civil remedy of department; abatement of imminent
824 danger; lien; notice; procedure.--In the event that an owner or
825 operator fails to abate a release or threatened release of any
826 hazardous substance, pollutant, or other contaminant, or abate
827 an imminent danger to the environment or to public health, and
828 the department expends in excess of \$1 million on such
829 abatement, the following remedy is provided to the department:

830 (1) All expenditures made by the department to abate such
831 release, threatened release, or imminent danger shall



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832 constitute, in each instance, a debt of the responsible party or
833 parties to the department.

834 (2) The debt shall constitute a lien on all property of
835 the responsible party or parties, including real, personal,
836 tangible, and intangible property interests. The department may
837 file a notice of lien incorporating a description of the
838 property of the responsible party or parties subject to the
839 abatement action and an identification of the amount of costs
840 expended by the department in performing the abatement action in
841 the public records of the county where the abatement action
842 occurred. To the extent the department intends to create a lien
843 on other assets of the responsible party or parties, such notice
844 may be filed in the same manner and place that is required of
845 federal liens pursuant to s. 713.901. The department may amend
846 and supplement the notice of lien to include amounts comprising
847 the debt expended by the department subsequent to the initial
848 filing of the notice of lien. Upon filing of the notice, the
849 lien, in the amount expended by the department for abatement of
850 the release, threatened release, or other imminent danger, shall
851 attach to all of the revenues and real and personal property of
852 the responsible party or parties, regardless of whether the
853 responsible party or parties are insolvent or are rendered
854 insolvent thereby. A notice of lien filed pursuant to this
855 section that affects the property of a responsible party or
856 parties subject to the abatement action shall create a lien with
857 priority over all other claims or liens that are or have been
858 filed against the property. A notice of lien filed pursuant to
859 this section that affects any property of a responsible party or



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860 parties other than the property subject to the abatement action
861 shall have priority from the day of the filing of the notice of
862 the lien over all other claims and liens filed against the
863 property but shall not affect any valid lien, right, or interest
864 in the property filed in accordance with established procedure
865 prior to the filing of a notice of lien pursuant to this
866 subsection.

867 Section 17. Subsections (2), (3), and (4) of section
868 403.4154, Florida Statutes, are amended, and subsections (6) and
869 (7) are added to said section, to read:

870 403.4154 Phosphogypsum management program.--

871 (2) REGULATORY PROGRAM.--

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

875 (b) The department shall adopt rules that prescribe
876 acceptable construction designs for new or expanded
877 phosphogypsum stack systems and that prescribe permitting
878 criteria for operation, closure criteria, long-term-care
879 requirements, and closure financial responsibility requirements
880 for phosphogypsum stack systems.

881 (c) In the event that an owner or operator of a
882 phosphogypsum stack or stack system fails to comply with
883 department rules requiring demonstration of closure financial
884 responsibility, no dividends or other distributions may be made
885 until the noncompliance is corrected and the department has
886 issued notification of compliance. Whoever willfully,
887 knowingly, or with reckless indifference or gross carelessness



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888 violates this prohibition commits a felony of the third degree,
889 punishable as provided in s. 775.082 by a fine of not more than
890 \$50,000 or by imprisonment for 5 years for each offense.

891 (3) ABATEMENT OF IMMINENT HAZARD.--

892 (a) The department may take action to abate or
893 substantially reduce any imminent hazard caused by the physical
894 condition, maintenance, operation, or closure of a phosphogypsum
895 stack system.

896 (b) An imminent hazard exists if the physical condition,
897 maintenance, operation, or closure of a phosphogypsum stack
898 system creates an immediate and substantial danger to human
899 health, safety, or welfare or to the environment. A
900 phosphogypsum stack system is presumed not to cause an imminent
901 hazard if the physical condition and operation of the system are
902 in compliance with all applicable department rules.

903 (d) The failure of an owner or operator of a phosphogypsum
904 stack system to comply with department rules requiring
905 demonstration of financial responsibility with respect to
906 closure may be considered by the department as evidence that a
907 phosphogypsum stack poses an imminent hazard for purposes of
908 initiating actions authorized by paragraph (d).

909 (d)(e) If the department determines that the failure of an
910 owner or operator to comply with department rules requiring
911 demonstration of financial responsibility or the physical
912 condition, maintenance, operation, or closure of a phosphogypsum
913 stack system poses an imminent hazard, the department shall
914 request access to the property on which such stack system is
915 located from the owner or operator of the stack system for the



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916 purposes of taking action to abate or substantially reduce the
917 imminent hazard. If the department, after reasonable effort, is
918 unable to timely obtain the necessary access to abate or
919 substantially reduce the imminent hazard, the department may
920 institute action in its own name, using the procedures and
921 remedies of s. 403.121 or s. 403.131, to abate or substantially
922 reduce an imminent hazard. Whenever serious harm to human
923 health, safety, or welfare, to the environment, or to private or
924 public property may occur prior to completion of an
925 administrative hearing or other formal proceeding that might be
926 initiated to abate the risk of serious harm, the department may
927 obtain from the court, ex parte, an injunction without paying
928 filing and service fees prior to the filing and service of
929 process.

930 (e)~~(d)~~ To abate or substantially reduce an imminent
931 hazard, the department may take any appropriate action,
932 including, but not limited to, using employees of the department
933 or contracting with other state or federal agencies, with
934 private third-party contractors, or with the owner or operator
935 of the stack system, or financing, compensating, or funding a
936 receiver, trustee, or owner of the stack system, to perform all
937 or part of the work.

938 (f)~~(e)~~ The department shall recover from the owner or
939 operator of the phosphogypsum stack system to the use of the
940 Nonmandatory Land Reclamation Trust Fund all moneys expended
941 from the fund, including funds expended prior to the effective
942 date of this section, to abate an imminent hazard posed by the
943 phosphogypsum stack system plus a penalty equal to an amount



944 calculated at 30 percent of such funds expended. This penalty
 945 shall be imposed annually, and prorated from the date of payment
 946 from the fund until the expended funds and the penalty are
 947 repaid. If the department prevails in any action to recover
 948 funds pursuant to this subsection, it may recover reasonable
 949 attorney's fees and costs incurred. Phosphogypsum may not be
 950 deposited on a stack until all moneys expended from the fund in
 951 connection with the stack have been repaid, unless the
 952 department determines that such placement is necessary to abate
 953 or avoid an imminent hazard or unless otherwise authorized by
 954 the department.

955 (g)~~(f)~~ The department may impose a lien on the real
 956 property on which the phosphogypsum stack system that poses an
 957 imminent hazard is located and on the real property underlying
 958 and other assets located at associated phosphate fertilizer
 959 production facilities equal in amount to the moneys expended
 960 from the Nonmandatory Land Reclamation Trust Fund pursuant to
 961 paragraph (e) ~~(d)~~, including attorney's fees and court costs.
 962 The owner of any property on which such a lien is imposed is
 963 entitled to a release of the lien upon payment to the department
 964 of the lien amount. The lien imposed by this section does not
 965 take priority over any other prior perfected lien on the real
 966 property, personal property, or other assets referenced in this
 967 paragraph, including, but not limited to, the associated
 968 phosphate rock mine and reserves.

969 (4) REGISTRATION FEES.--

970 (a)1. The owner or operator of each existing phosphogypsum
 971 stack who has not provided a performance bond, letter of credit,



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972 trust fund agreement, or closure insurance to demonstrate
973 financial responsibility for closure and long-term care shall
974 pay to the department a fee as set forth in this paragraph. All
975 fees shall be deposited in the Nonmandatory Land Reclamation
976 Trust Fund.

977 2. The amount of the fee for each existing stack shall be
978 \$75,000 for each of the five 12-month periods following July 1,
979 2001.

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

987 ~~4. Within 30 days after a phosphogypsum stack has been~~
988 ~~certified as closed pursuant to rule 62-673.620(2) and (3),~~
989 ~~Florida Administrative Code, the department shall refund to the~~
990 ~~owner of the closed phosphogypsum stack an amount from the~~
991 ~~Nonmandatory Land Reclamation Trust Fund equal to the total~~
992 ~~amount of fee payments made by the owner or operator to the fund~~
993 ~~in connection with the closed phosphogypsum stack, except that~~
994 ~~any refund becoming payable prior to July 1, 2009, shall be paid~~
995 ~~to the owner on or after that date.~~

996 (b) On or before August 1 of each year, the department
997 shall provide written notice to each owner of an existing stack
998 of any fee payable for the 12-month period commencing on the



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999 immediately preceding July 1. Each owner shall remit the fee to
1000 the department on or before August 31 of each year.

1001 (6) INTERIM STACK SYSTEM MANAGEMENT PLAN.--

1002 (a) By October 1, 2003, the department shall initiate
1003 rulemaking to require that phosphogypsum stack system operation
1004 plans required by department rule be amended by adding an
1005 interim stack system management (ISSM) plan that provides
1006 written instructions for the operation of the system assuming
1007 that no phosphoric acid would be produced at the facility for a
1008 2-year period. The initial ISSM plan shall be completed as of
1009 the first July 1 following the adoption of the rule required by
1010 this section. The ISSM plan shall include:

1011 1. A detailed description of process water management
1012 procedures that will be implemented to ensure that the stack
1013 system operates in accordance with all applicable department
1014 permit conditions and rules. The procedures shall address the
1015 actual process water levels present at the facility 30 days
1016 prior to the completion of the plan and shall assume that the
1017 facility will receive annual average rainfall during the 2-year
1018 planning period.

1019 2. A detailed description of the procedures to be followed
1020 for the daily operation and routine maintenance of the stack
1021 system, including required environmental sampling and analyses,
1022 as well as for any maintenance or repairs recommended following
1023 annual inspections of the system.

1024 3. Identification of all machinery, equipment, and
1025 materials necessary to implement the plan.



1026 4. Identification of the sources of power or fuel
 1027 necessary to implement the plan.

1028 5. Identification of the personnel necessary to implement
 1029 the plan.

1030 (b) The ISSM plan shall be updated annually, taking into
 1031 account process water levels as of June 1 of each year and the
 1032 existing stack system configuration.

1033 (c) The requirements listed in paragraphs (a) and (b) are
 1034 applicable to all phosphogypsum stack systems except those which
 1035 have been closed, which are undergoing closure, or for which an
 1036 application for a closure permit has been submitted pursuant to
 1037 department rule.

1038 (7) PHOSPHOGYPSUM STACK SYSTEM GENERAL CLOSURE PLAN.--

1039 (a) By October 1, 2003, the department shall initiate
 1040 rulemaking to require that general plans and schedules for the
 1041 closure of phosphogypsum stack systems include:

1042 1. A description of the physical configuration of the
 1043 phosphogypsum stack system anticipated at the time of closure at
 1044 the end of useful life of the system.

1045 2. A site-specific water management plan describing the
 1046 procedures to be employed at the end of the useful life of the
 1047 system to manage the anticipated volume of process water in an
 1048 environmentally sound manner.

1049 3. An estimate of the cost of management of the
 1050 anticipated volume of process water in accordance with the site-
 1051 specific water management plan.

1052 4. A description of all construction work necessary to
 1053 properly close the system in accordance with department rules.



1054 5. An estimate of all costs associated with long-term care
 1055 of the closed system, including maintenance and monitoring, in
 1056 accordance with department rules.

1057 (b) The department shall revise chapter 62-673, Florida
 1058 Administrative Code, to require the owner or operator of a
 1059 phosphogypsum stack management system to demonstrate financial
 1060 responsibility for the costs of terminal closure of the
 1061 phosphogypsum stack system in a manner that protects the public
 1062 health and safety.

1063 1. The costs of terminal closure shall be estimated based
 1064 on the stack system configuration as of the end of its useful
 1065 life as determined by the owner or operator.

1066 2. The owner or operator may demonstrate financial
 1067 responsibility by use of one or more of the following methods:

- 1068 a. Bond.
- 1069 b. Letter of credit.
- 1070 c. Cash deposit arrangement.
- 1071 d. Closure insurance.
- 1072 e. Financial tests.
- 1073 f. Corporate guarantee.

1074

1075 For the purposes of this section, a "cash deposit arrangement"
 1076 refers to a trust fund, business or statutory trust, escrow
 1077 account, or similar cash deposit entity whereby a fiduciary
 1078 holds and invests funds deposited by the owner or operator,
 1079 which funds shall be expended only for the purpose of directly
 1080 implementing all or some portion of phosphogypsum stack system
 1081 closure requirements of that particular owner or operator.



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1082 3. A trustee, escrow agent, or other fiduciary of a cash
1083 deposit arrangement authorized by this section shall have no
1084 liability for any damage or loss of any kind arising out of or
1085 caused by performance of duties imposed by the terms of the
1086 applicable agreement except where such damage or loss is
1087 directly caused by the gross negligence or criminal act of the
1088 trustee, escrow agent, or other fiduciary. In performing its
1089 duties pursuant to the applicable agreement, a trustee, escrow
1090 agent, or other fiduciary shall be entitled to rely upon
1091 information and direction received from the grantor or the
1092 department without independent verification unless such
1093 information and direction are manifestly in error:

1094 4. To the extent that a cash deposit arrangement is used
1095 to provide proof of financial responsibility for all or a
1096 portion of closure costs, the trust, escrow, or cash arrangement
1097 deposit entity shall be deemed to have assumed all liability for
1098 such closure costs up to the amount of the cash deposit, less
1099 any fees or costs of the trustee, escrow agent, or other
1100 fiduciary.

1101 5. Any funds maintained in a cash deposit arrangement
1102 authorized by this section shall not be subject to claims of
1103 creditors of the owner or operator and shall otherwise be exempt
1104 from setoff, execution, levy, garnishment, and similar writs and
1105 proceedings.

1106 6. Any funds remaining in a trust, escrow account, or
1107 other cash deposit arrangement after the purpose of such cash
1108 deposit arrangement under this section has been accomplished
1109 shall be returned to the grantor.



1110 Section 18. Subsection (2) of section 403.4155, Florida
1111 Statutes, is amended to read:

1112 403.4155 Phosphogypsum management; rulemaking authority.--

1113 (2) The department shall revise chapter 62-673, Florida
1114 Administrative Code, to require the owner or operator of a
1115 phosphogypsum stack system to demonstrate financial
1116 responsibility for the costs of terminal closure of the
1117 phosphogypsum stack system in a manner that protects the
1118 environment and the public health and safety. At a minimum, such
1119 rules shall include or address the following requirements:

1120 (a) That the cost of closure and long-term care be re-
1121 estimated by a professional engineer and adjusted for inflation
1122 on an annual basis. At a minimum, such cost data shall include:

1123 1. The cost of treatment and appropriate disposal of all
1124 process wastewater, both ponded and pore, in the system.

1125 2. All construction work necessary to properly close the
1126 system in accordance with department rules.

1127 3. All costs associated with long-term care of the closed
1128 system, including maintenance and monitoring, in accordance with
1129 department rules.

1130 (b) That financial statements and financial data be
1131 prepared according to generally accepted accounting principles
1132 within the United States and submitted quarterly.

1133 (c) That audited financial statements be provided annually
1134 along with the statement of financial assurance.

1135 (d) That any owner or operator in default on any of its
1136 obligations report such default immediately.



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1137 (e) That an owner or operator shall have the option to
1138 satisfy the financial tests with a corporate guarantee for an
1139 amount that would ensure adequate coverage of closure and
1140 postclosure costs.

1141 (f) A requirement for a 5-year interim stack system
1142 management plan that provides details on the operation of the
1143 specific phosphogypsum stack system, including water management,
1144 should a temporary deactivation of the system occur. By January
1145 31, 2002, the department shall review chapter 62-673, Florida
1146 Administrative Code, to determine the adequacy of the financial
1147 responsibility provisions contained in the rules and shall take
1148 any measures necessary to ensure that the rules provide sound
1149 and effective provisions to minimize risk to the environment and
1150 to public health and safety from the business failure of a
1151 phosphogypsum stack system.

1152 Section 19. If any provision of this act or the
1153 application thereof to any person or circumstance is held
1154 invalid, the invalidity shall not affect other provisions or
1155 applications of the act which can be given effect without the
1156 invalid provision or application, and to this end the provisions
1157 of this act are declared severable.

1158 Section 20. Except as otherwise provided herein, this act
1159 shall take effect upon becoming a law.