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1 A bill to be entitled

2 An act relating to phosphate mining; amending s. 211.3103,  
3 F.S.; revising the tax on phosphate rock; providing for  
4 the distribution of tax proceeds; deleting obsolete  
5 language; amending s. 378.021, F.S.; directing the  
6 Department of Environmental Protection to amend the master  
7 reclamation plan; amending s. 378.031, F.S.; providing  
8 additional intent concerning reclamation activities;  
9 amending s. 378.035, F.S.; amending authorized uses of  
10 funds deposited in the Nonmandatory Land Reclamation Trust  
11 Fund; removing requirements for a reserve; limiting  
12 reclamation expenditures for fiscal year 2003-2004;  
13 amending s. 378.036, F.S.; creating a not-for-profit  
14 partnership to assist in phosphate reclamation; providing  
15 duties of the partnership; providing for the  
16 administration of partnership funds; providing an  
17 appropriation; amending s. 378.212; providing authority  
18 for a variance for certain reclamation activities;  
19 amending s. 378.404, F.S.; allowing variances for water  
20 supply development; amending s. 403.4154, F.S.; providing  
21 criminal penalties for certain violations; prohibiting the  
22 distribution of certain company assets under certain  
23 circumstances; providing for the declaration of an  
24 imminent hazard if certain financial conditions exist;  
25 providing limited liability for entities assisting in the  
26 abatement of imminent hazards; amending a provision  
27 granting certain rebates of phosphate fees; amending s.  
28 403.4155, F.S.; directing that rules be developed for  
29 financial assurance, interim stack management, and stack  
30 closure; requiring the Department of Environmental



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31 Protection to conduct a study; providing funds for the  
32 study; providing for the transfer of certain funds from  
33 the Nonmandatory Land Reclamation Trust Fund to the  
34 General Revenue Fund; providing for the funding of a study  
35 by the Florida Institute of Phosphate Research; providing  
36 for construction of the act in pari materia with laws  
37 enacted during the 2003 Regular Session or the 2003  
38 Special Session A of the Legislature; providing an  
39 effective date.

40

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

42

43 Section 1. Section 211.3103, Florida Statutes, is amended  
44 to read:

45 211.3103 Levy of tax on severance of phosphate rock; rate,  
46 basis, and distribution of tax.--

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

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

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

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

60 1. For payment to counties in proportion to the number of



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61 tons of phosphate rock produced from a phosphate rock matrix  
62 located within such political boundary, 18.75 percent. The  
63 department shall distribute this portion of the proceeds  
64 annually based on production information reported by the  
65 producers on the annual returns for the taxable year. Any such  
66 proceeds received by a county shall be used only for phosphate-  
67 related expenses.

68 2. For payment to counties that have been designated a  
69 Rural Area of Critical Economic Concern pursuant to s. 288.0656  
70 in proportion to the number of tons of phosphate rock produced  
71 from a phosphate rock matrix located within such political  
72 boundary, 15 percent. The department shall distribute this  
73 portion of the proceeds annually based on production information  
74 reported by the producers on the annual returns for the taxable  
75 year.

76 3. To the credit of the Phosphate Research Trust Fund in  
77 the Department of Education, Division of Universities, 11.25  
78 percent.

79 4. To the credit of the Minerals Trust Fund, 11.25  
80 percent.

81 5. To the credit of the Nonmandatory Land Reclamation  
82 Trust Fund, 43.75 percent.

83 (3) Beginning July 1, 2004, the proceeds of all taxes,  
84 interest, and penalties imposed under this section shall be paid  
85 into the State Treasury as follows:

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

89 (b) The remaining revenues collected from the tax during  
90 that fiscal year, after the required payment under paragraph



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91 (a), shall be paid into the State Treasury as follows:

92 1. To the credit of the General Revenue Fund of the state,  
93 41 percent.

94 2. For payment to counties in proportion to the number of  
95 tons of phosphate rock produced from a phosphate rock matrix  
96 located within such political boundary, 16.5 percent. The  
97 department shall distribute this portion of the proceeds  
98 annually based on production information reported by the  
99 producers on the annual returns for the taxable year. Any such  
100 proceeds received by a county shall be used only for phosphate-  
101 related expenses.

102 3. For payment to counties that have been designated a  
103 Rural Area of Critical Economic Concern pursuant to s. 288.0656  
104 in proportion to the number of tons of phosphate rock produced  
105 from a phosphate rock matrix located within such political  
106 boundary, 13 percent. The department shall distribute this  
107 portion of the proceeds annually based on production information  
108 reported by the producers on the annual returns for the taxable  
109 year. Payments under this subparagraph shall be made to the  
110 counties unless the Legislature by special act creates a local  
111 authority to promote and direct the economic development of the  
112 county. If such authority exists, payments shall be made to that  
113 authority.

114 4. To the credit of the Phosphate Research Trust Fund in  
115 the Department of Education, Division of Universities, 9  
116 percent.

117 5. To the credit of the Minerals Trust Fund, 9 percent.

118 6. To the credit of the Nonmandatory Land Reclamation  
119 Trust Fund, 11.5 percent.

120 (4) Beginning July 1, 2003, and annually thereafter, the



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121 Department of Environmental Protection may utilize up to \$2  
 122 million of the funds in the Nonmandatory Land Reclamation Trust  
 123 Fund to purchase a surety bond or a policy of insurance, the  
 124 proceeds of which would pay the cost of restoration,  
 125 reclamation, and cleanup of any phosphogypsum stack system and  
 126 phosphate mining activities in the event that an operator or  
 127 permittee thereof has been subject to a final order of  
 128 bankruptcy and all funds available therefrom are determined to  
 129 be inadequate to accomplish such restoration, reclamation, and  
 130 cleanup. Nothing in this section shall be construed to imply  
 131 that such operator or permittee is thereby relieved of its  
 132 obligations or relieved of any liabilities pursuant to any other  
 133 remedies at law, administrative remedies, statutory remedies, or  
 134 remedies pursuant to bankruptcy law. The department shall adopt  
 135 rules to implement the provisions of this paragraph, including  
 136 the purchase and oversight of the bond or policy.

137 (5) Funds distributed pursuant to subparagraphs (2)(b)2.  
 138 and (3)(b)3. shall be used for the following purposes:

139 1. For planning, preparing, and financing of  
 140 infrastructure projects for job creation and capital investment,  
 141 especially those related to industrial and commercial sites.  
 142 Infrastructure investments may include the following public or  
 143 public-private partnership facilities: stormwater systems;  
 144 telecommunications facilities; roads or other remedies to  
 145 transportation impediments; nature-based tourism facilities; or  
 146 other physical requirements necessary to facilitate trade and  
 147 economic development activities.

148 2. For maximizing the use of federal, local, and private  
 149 resources, including, but not limited to, those available under  
 150 the Small Cities Community Development Block Grant Program.



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151 3. For projects that improve inadequate infrastructure  
152 that has resulted in regulatory action that prohibits economic  
153 or community growth, provided that such projects are related to  
154 specific job creation or job retention opportunities.

155 (6) Beginning January 1, 2004, the tax rate shall be the  
156 base rate of \$1.62 per ton severed.

157 (7) Beginning January 1, 2005, and annually thereafter,  
158 the tax rate shall be the base rate times the base rate  
159 adjustment for the tax year as calculated by the department in  
160 accordance with subsection (8).

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

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

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

170 ~~1. To the credit of the General Revenue Fund of the state,~~  
171 ~~60 percent. However, from this amount the amounts of \$7.4~~  
172 ~~million, \$8.2 million, and \$8.1 million, respectively, shall be~~  
173 ~~transferred to the Nonmandatory Land Reclamation Trust Fund on~~  
174 ~~January 1, 1993, January 1, 1994, and January 1, 1995.~~

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

179 ~~3. To the credit of the Phosphate Research Trust Fund in~~  
180 ~~the Department of Education, Division of Universities, to carry~~



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181 ~~out the purposes set forth in s. 378.101, 10 percent.~~

182 ~~4. For payment to counties in proportion to the number of~~  
183 ~~tons of phosphate rock produced from a phosphate rock matrix~~  
184 ~~located within such political boundary, 10 percent. The~~  
185 ~~department shall distribute this portion of the proceeds~~  
186 ~~annually based on production information reported by producers~~  
187 ~~on the annual returns for the taxable year. Any such proceeds~~  
188 ~~received by a county shall be used only for phosphate-related~~  
189 ~~expenses.~~

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

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

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

199 ~~1. To the credit of the General Revenue Fund of the state,~~  
200 ~~58 percent.~~

201 ~~2. To the credit of the Nonmandatory Land Reclamation~~  
202 ~~Trust Fund for reclamation and acquisition of unreclaimed lands~~  
203 ~~disturbed by phosphate mining and not subject to mandatory~~  
204 ~~reclamation, 14.5 percent.~~

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

208 ~~4. For payment to counties in proportion to the number of~~  
209 ~~tons of phosphate rock produced from a phosphate rock matrix~~  
210 ~~located within such political boundary, 10 percent. The~~



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211 ~~department shall distribute this portion of the proceeds~~  
212 ~~annually based on production information reported by producers~~  
213 ~~on the annual returns for the taxable year. Any such proceeds~~  
214 ~~received by a county shall be used only for phosphate-related~~  
215 ~~expenses.~~

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

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

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

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

226 ~~1. To the credit of the General Revenue Fund of the state,~~  
227 ~~55.15 percent.~~

228 ~~2. To the credit of the Phosphate Research Trust Fund in~~  
229 ~~the Department of Education, Division of Universities, 12.5~~  
230 ~~percent.~~

231 ~~3. For payment to counties in proportion to the number of~~  
232 ~~tons of phosphate rock produced from a phosphate rock matrix~~  
233 ~~located within such political boundary, 18 percent. The~~  
234 ~~department shall distribute this portion of the proceeds~~  
235 ~~annually based on production information reported by producers~~  
236 ~~on the annual returns for the taxable year. Any such proceeds~~  
237 ~~received by a county shall be used only for phosphate-related~~  
238 ~~expenses.~~

239 ~~4. To the credit of the Minerals Trust Fund, 14.35~~  
240 ~~percent.~~





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241 ~~(8)(5)~~ The excise tax levied by this section shall apply  
 242 to the total production of the producer during the taxable year,  
 243 measured on the basis of bone-dry tons produced at the point of  
 244 severance, ~~subject to the following rates:~~

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

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

249 ~~(c) For 1989 and subsequent years, the tax rate shall be~~  
 250 ~~the base rate times the base rate adjustment for the tax year as~~  
 251 ~~calculated by the department in accordance with subsection (6).~~  
 252 ~~However, for 2000 and subsequent taxable years, the base rate~~  
 253 ~~shall be reduced by 20 percent, unless additional funding of the~~  
 254 ~~Nonmandatory Land Reclamation Trust Fund is approved by law.~~

255 ~~(9)(6)~~(a) On or before March 30, 2004 ~~1989~~, and annually  
 256 thereafter, the department shall calculate the base rate  
 257 adjustment, if any, for phosphate rock based on the change in  
 258 the unadjusted annual producer price index for the prior  
 259 calendar year in relation to the unadjusted annual producer  
 260 price index for calendar year 1999 ~~1987~~.

261 (b) For the purposes of determining the base rate  
 262 adjustment for any year, the base rate adjustment shall be a  
 263 fraction, the numerator of which is the unadjusted annual  
 264 producer price index for the prior calendar year and the  
 265 denominator of which is the unadjusted annual producer price  
 266 index for calendar year 1999 ~~1987~~.

267 (c) The department shall provide the base rate, the base  
 268 rate adjustment, and the resulting tax rate to affected  
 269 producers by written notice on or before April 15 of the current  
 270 year.



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271 (d) If the producer price index for chemical and  
 272 fertilizer mineral mining ~~phosphate rock primary products~~ is  
 273 substantially revised, the department shall make appropriate  
 274 adjustment in the method used to compute the base rate  
 275 adjustment under this subsection which will produce results  
 276 reasonably consistent with the result which would have been  
 277 obtained if the producer price index for phosphate rock primary  
 278 products had not been revised. However, the tax rate shall not  
 279 be less than \$1.56 per ton severed.

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

283 ~~(10)(7)~~ The excise tax levied on the severance of  
 284 phosphate rock shall be in addition to any ad valorem taxes  
 285 levied upon the separately assessed mineral interest in the real  
 286 property upon which the site of severance is located, or any  
 287 other tax, permit, or license fee imposed by the state or its  
 288 political subdivisions.

289 ~~(11)(8)~~ The tax levied by this section shall be collected  
 290 in the manner prescribed in s. 211.33.

291 Section 2. Section 378.021, Florida Statutes, is amended  
 292 to read:

293 378.021 Master reclamation plan.--

294 (1) The Department of Environmental Protection ~~Natural~~  
 295 ~~Resources~~ shall amend the ~~adopt by rule, as expeditiously as~~  
 296 ~~possible upon receipt of the report of the Land Use Advisory~~  
 297 ~~Committee, a~~ master reclamation plan that provides ~~to provide~~  
 298 guidelines for the reclamation of lands mined or disturbed by  
 299 the severance of phosphate rock prior to July 1, 1975, which  
 300 lands are not subject to mandatory reclamation under part II of



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301 chapter 211. In amending the ~~developing said~~ master reclamation  
 302 plan, the Department of Environmental Protection ~~Natural~~  
 303 ~~Resources~~ shall continue to conduct an onsite evaluation of all  
 304 lands mined or disturbed by the severance of phosphate rock  
 305 prior to July 1, 1975, which lands are not subject to mandatory  
 306 reclamation under part II of chapter 211, and shall consider the  
 307 report and plan prepared by the Land Use Advisory Committee  
 308 under s. 378.011 and submitted to the former Department of  
 309 Natural Resources for adoption by rule on or before July 1,  
 310 1979. The master reclamation plan when amended ~~adopted~~ by the  
 311 Department of Environmental Protection ~~Natural Resources~~ shall  
 312 be consistent with local government plans prepared pursuant to  
 313 the Local Government Comprehensive Planning and Land Development  
 314 Regulation Act.

315 (2) The amended master reclamation plan shall identify  
 316 which of the lands mined or disturbed by the severance of  
 317 phosphate rock prior to July 1, 1975, meet the following  
 318 criteria:

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

324 (b) The environmental or economic utility or aesthetic  
 325 value of the land would not naturally return within a reasonable  
 326 time, and reclamation would substantially promote the  
 327 environmental or economic utility or the aesthetic value of the  
 328 land; ~~and~~

329 (c) The reclamation of the land is in the public interest  
 330 because the reclamation, when combined with other reclamation



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331 under the master plan, would provide a substantial regional  
332 benefit; ~~and-~~

333 (d) The reclamation of the land is in the public interest  
334 because the reclamation, when combined with other reclamation  
335 under the master plan, will provide significant benefits to  
336 surface water bodies supplying water for environmental and  
337 public purposes in those areas of the state where phosphate  
338 mining has been permitted.

339 (3) Lands evaluated by the department under subsection (1)  
340 which meet the criteria set forth in subsection (2) shall be  
341 identified with specificity in the master reclamation plan.  
342 Lands evaluated by the department under subsection (1) which do  
343 not meet the criteria set forth in subsection (2) shall also be  
344 identified with specificity in the master reclamation plan as  
345 lands which are acceptable in their present form.

346 (4) Upon adoption of the amendments to the master  
347 reclamation plan as a rule, such plan shall provide the  
348 guidelines for approval of reclamation programs for lands  
349 covered in the plan, recognizing that reclamation of such lands  
350 is not mandatory, but that any payment of costs expended for  
351 reclamation paid under s. 378.031 shall be contingent upon  
352 conformity with the guidelines set forth in the master  
353 reclamation plan.

354 Section 3. Section 378.031, Florida Statutes, is amended  
355 to read:

356 378.031 Reclamation or acquisition of nonmandatory lands;  
357 legislative intent.--It is the intent of the Legislature to  
358 provide an economic incentive to encourage the reclamation of  
359 the maximum number of acres of eligible nonmandatory lands in  
360 the most timely and efficient manner or the donation or purchase



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361 of nonmandatory lands, especially those lands for which  
 362 reclamation activities will result in significant improvements  
 363 to surface water bodies of regional importance in those areas of  
 364 the state where phosphate mining has been permitted. The  
 365 Legislature recognizes that certain lands mined or disturbed  
 366 prior to July 1, 1975, have been naturally reclaimed.

367 Section 4. Subsections (5), (6), (7), (8), and (9) of  
 368 section 378.035, Florida Statutes, are amended to read:

369 378.035 Department responsibilities and duties with  
 370 respect to Nonmandatory Land Reclamation Trust Fund.--

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

375 (a) ~~These reserved moneys are to be used~~ To reclaim lands  
 376 disturbed by the severance of phosphate rock on or after July 1,  
 377 1975, in the event that a mining company ceases mining and the  
 378 associated reclamation prior to all lands disturbed by the  
 379 operation being reclaimed. Moneys expended by the department to  
 380 accomplish reclamation pursuant to this subsection shall become  
 381 a lien upon the property enforceable pursuant to chapter 85. The  
 382 moneys received as a result of a lien foreclosure or as  
 383 repayment shall be deposited into the trust fund. In the event  
 384 the money received as a result of lien foreclosure or repayment  
 385 is less than the amount expended for reclamation, the department  
 386 shall use all means available to recover, for the use of the  
 387 fund, the difference from the affected parties. Paragraph (3)(b)  
 388 shall apply to lands acquired as a result of a lien foreclosure.

389 (b) ~~The department may also expend funds from the \$50~~  
 390 ~~million reserve fund~~ For the abatement of an imminent hazard as



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391 provided by s. 403.4154(3) and for the purpose of closing an  
392 abandoned phosphogypsum stack system and carrying out  
393 postclosure care as provided by s. 403.4154(5). ~~Fees deposited~~  
394 ~~in the Nonmandatory Land Reclamation Trust Fund pursuant to s.~~  
395 ~~403.4154(4) may be used for the purposes authorized in this~~  
396 ~~paragraph. However, such fees may only be used at a stack system~~  
397 ~~if closure or imminent hazard abatement activities initially~~  
398 ~~commence on or after July 1, 2002.~~

399 ~~(c)(6)(a) Up to one-half of the interest income accruing~~  
400 ~~to the funds reserved by subsection (5) shall be available to~~  
401 ~~the department annually~~ For the purpose of funding basic  
402 management or protection of reclaimed, restored, or preserved  
403 phosphate lands:

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

406 2. Which have been transferred by the landowner to a  
407 public agency or a private, nonprofit land conservation and  
408 management entity in fee simple, or which have been made subject  
409 to a conservation easement pursuant to s. 704.06; and

410 3. For which other management funding options are not  
411 available.

412

413 These funds may, after the basic management or protection has  
414 been assured for all such lands, be combined with other  
415 available funds to provide a higher level of management for such  
416 lands.

417 ~~(d)(b) Up to one-half of the interest income accruing to~~  
418 ~~the funds reserved by subsection (5) shall be available to the~~  
419 ~~department annually~~ For the sole purpose of funding the  
420 department's implementation of:



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421 1. The NPDES permitting program authorized by s. 403.0885,  
 422 as it applies to phosphate mining and beneficiation facilities,  
 423 phosphate fertilizer production facilities, and phosphate  
 424 loading and handling facilities;

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

427 3. The phosphogypsum management program pursuant to s.  
 428 403.4154 and department rule 62-673, Florida Administrative  
 429 Code.

430  
 431 ~~On or before August 1 of each fiscal year, the department shall~~  
 432 ~~prepare a report presenting the expenditures using the interest~~  
 433 ~~income allocated by this section made by the department during~~  
 434 ~~the immediately preceding fiscal year, which report shall be~~  
 435 ~~available to the public upon request.~~

436 (6)~~(7)~~ Should the nonmandatory land reclamation program  
 437 encumber all the funds in the Nonmandatory Land Reclamation  
 438 Trust Fund except those reserved by subsection (5) prior to  
 439 funding all the reclamation applications for eligible parcels,  
 440 the funds reserved by subsection (5) shall be available to the  
 441 program to the extent required to complete the reclamation of  
 442 all eligible parcels for which the department has received  
 443 applications.

444 (7)~~(8)~~ The department may not accept any applications for  
 445 nonmandatory land reclamation programs after July 1, 2004  
 446 ~~November 1, 2008~~.

447 (8)~~(9)~~ The Bureau of Mine Reclamation shall review the  
 448 sufficiency of the Nonmandatory Land Reclamation Trust Fund to  
 449 support the stated objectives and report to the secretary  
 450 annually with recommendations as appropriate. ~~The report~~



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451 ~~submittal for calendar year 2008 shall specifically address the~~  
452 ~~effect of providing a future refund of fees paid pursuant to s.~~  
453 ~~403.4154(4) following certification of stack closure pursuant to~~  
454 ~~department rules, and the report shall be submitted to the~~  
455 ~~Governor, the President of the Senate, and the Speaker of the~~  
456 ~~House of Representatives on or before March 1, 2009.~~

457

458 For the 2003-2004 fiscal year the department may not approve or  
459 encumber nonmandatory reclamation projects in amounts greater  
460 than \$15 million.

461 Section 5. Subsection (6) is added to section 378.036,  
462 Florida Statutes, to read:

463 378.036 Land acquisitions financed by Nonmandatory Land  
464 Reclamation Trust Fund moneys.--

465 (6)(a) By January 1, 2004, or within 6 months from the  
466 date funds become available from the Legislature, whichever is  
467 later, the Florida Wildlife Federation, Audubon Florida, and  
468 Rails-to-Trails Conservancy in partnership with the Florida  
469 Phosphate Council are authorized to form a nonprofit corporation  
470 pursuant to chapter 617 for the purpose of implementing the  
471 provisions of this section by creating plans and assisting in  
472 the development of recreational opportunities on lands mined for  
473 phosphate in the state. The first plans shall concentrate on  
474 recreational activities in Hardee and Hamilton Counties which  
475 will assist them in rural economic development.

476 (b) The board of directors of the corporation shall be  
477 composed of three members, one designated by the Florida  
478 Phosphate Council, one as the designee of the Florida Wildlife  
479 Federation, Audubon Florida, and Rails-to-Trails Conservancy,  
480 and the third chosen by the other two designees.





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481 (c) The business of the corporation shall be conducted by  
482 the board of directors or a chief executive officer as the board  
483 shall see fit in accordance with the provisions of its articles  
484 of incorporation and applicable law. The activities of the  
485 corporation shall be coordinated with all landowners who have  
486 voluntarily agreed to participate in the process as well as any  
487 local government where such lands are recorded.

488 (d) An annual report of the activities of the corporation,  
489 including a certified audit, shall be presented to the Secretary  
490 of Environmental Protection or his or her designee by October 31  
491 of each year following incorporation.

492 (e) The corporation shall dissolve on January 1, 2009,  
493 unless dissolved previously by action of its board of directors  
494 or extended by the Legislature. Upon dissolution, any moneys  
495 remaining in the accounts of the corporation that are  
496 unobligated shall be returned to the funds from which they were  
497 appropriated in proportion to the amount contributed. All  
498 tangible assets of the corporation at dissolution which were  
499 acquired using state funding shall become the property of the  
500 Department of Environmental Protection.

501 (f) For fiscal year 2003-2004, the sum of \$200,000 shall  
502 be appropriated from the Nonmandatory Land Reclamation Trust  
503 Fund to the non-profit corporation specified hereinabove for the  
504 purpose of creating plans and assisting in the development of  
505 recreational opportunities on lands mined for phosphate in the  
506 state.

507 Section 6. Subsection (1) of section 378.212, Florida  
508 Statutes, is amended to read:

509 378.212 Variances.--

510 (1) Upon application, the secretary may grant a variance



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511 from the provisions of this part or the rules adopted pursuant  
512 thereto. Variances and renewals thereof may be granted for any  
513 one of the following reasons:

514 (a) There is no practicable means known or available to  
515 comply with the provisions of this part or the rules adopted  
516 pursuant thereto.

517 (b) Compliance with a particular requirement or  
518 requirements from which a variance is sought will necessitate  
519 the taking of measures which must be spread over a considerable  
520 period of time. A variance granted for this reason shall  
521 prescribe a timetable for the taking of the measures required.

522 (c) To relieve or prevent hardship, including economic  
523 hardship, of a kind other than those provided for in paragraphs  
524 (a) and (b).

525 (d) To accommodate specific phosphate mining, processing  
526 or chemical plant uses that otherwise would be inconsistent with  
527 the requirements of this part.

528 (e) To provide for an experimental technique that would  
529 advance the knowledge of reclamation and restoration methods.

530 (f) To accommodate projects, including those proposing  
531 offsite mitigation, that provide a significant regional benefit  
532 for wildlife and the environment.

533 (g) To accommodate reclamation that provides water supply  
534 development or water resource development not inconsistent with  
535 the applicable regional water supply plan approved pursuant to  
536 s. 373.0361, provided adverse impacts are not caused to the  
537 water resources in the basin. A variance may also be granted  
538 from the requirements of part IV of chapter 373, or the rules  
539 adopted thereunder, when a project provides an improvement in  
540 water availability in the basin and does not cause adverse



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541 impacts to water resources in the basin.

542 Section 7. Subsection (9) is added to section 378.404,  
543 Florida Statutes, to read:

544 378.404 Department of Environmental Protection; powers and  
545 duties.--The department shall have the following powers and  
546 duties:

547 (9) To grant variances from the provisions of this part to  
548 accommodate reclamation that provides for water supply  
549 development or water resource development not inconsistent with  
550 the applicable regional water supply plan approved pursuant to  
551 s. 373.0361, appropriate stormwater management, improved  
552 wildlife habitat, recreation, or a mixture thereof, provided  
553 adverse impacts are not caused to the water resources in the  
554 basin and public health and safety are not adversely affected.

555 Section 8. Subsections (2), (3), and (4) of section  
556 403.4154, Florida Statutes, are amended to read:

557 403.4154 Phosphogypsum management program.--

558 (2) REGULATORY PROGRAM.--

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

562 (b) The department shall adopt rules that prescribe  
563 acceptable construction designs for new or expanded  
564 phosphogypsum stack systems and that prescribe permitting  
565 criteria for operation, ~~closure criteria~~, long-term-care  
566 requirements, and closure financial responsibility requirements  
567 for phosphogypsum stack systems.

568 (c) Whoever willfully, knowingly, or with reckless  
569 indifference or gross carelessness misstates or misrepresents  
570 the financial condition or closure costs of an entity engaged in



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571 managing, owning, or operating a phosphogypsum stack or stack  
572 system commits a felony of the third degree, punishable as  
573 provided in s. 775.082 or s. 775.083 by a fine of not more than  
574 \$50,000 and by imprisonment for 5 years for each offense.

575 (d) In the event that an owner or operator of a  
576 phosphogypsum stack or stack system fails to comply with  
577 department rules requiring demonstration of closure financial  
578 responsibility, no distribution may be made that would be  
579 prohibited under s. 607.06401(3), until the noncompliance is  
580 corrected. Whoever willfully, knowingly, or with reckless  
581 indifference or gross carelessness violates this prohibition  
582 commits a felony of the third degree, punishable as provided in  
583 s. 775.082 or s. 775.083 by a fine of not more than \$50,000 or  
584 by imprisonment for 5 years for each offense.

585 (3) ABATEMENT OF IMMINENT HAZARD.--

586 (a) The department may take action to abate or  
587 substantially reduce any imminent hazard caused by the physical  
588 condition, maintenance, operation, or closure of a phosphogypsum  
589 stack system.

590 (b) An imminent hazard exists if the physical condition,  
591 maintenance, operation, or closure of a phosphogypsum stack  
592 system creates an immediate and substantial danger to human  
593 health, safety, or welfare or to the environment. A  
594 phosphogypsum stack system is presumed not to cause an imminent  
595 hazard if the physical condition and operation of the system are  
596 in compliance with all applicable department rules.

597 (c) The failure of an owner or operator of a phosphogypsum  
598 stack system to comply with department rules requiring  
599 demonstration of closure financial responsibility may be  
600 considered by the department as evidence that a phosphogypsum



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601 stack poses an imminent hazard for purposes of initiating  
602 actions authorized by paragraph (d).

603 (d)(e) If the department determines that the failure of an  
604 owner or operator to comply with department rules requiring  
605 demonstration of financial responsibility or that the physical  
606 condition, maintenance, operation, or closure of a phosphogypsum  
607 stack system poses an imminent hazard, the department shall  
608 request access to the property on which such stack system is  
609 located from the owner or operator of the stack system for the  
610 purposes of taking action to abate or substantially reduce the  
611 imminent hazard. If the department, after reasonable effort, is  
612 unable to timely obtain the necessary access to abate or  
613 substantially reduce the imminent hazard, the department may  
614 institute action in its own name, using the procedures and  
615 remedies of s. 403.121 or s. 403.131, to abate or substantially  
616 reduce an imminent hazard. Whenever serious harm to human  
617 health, safety, or welfare, to the environment, or to private or  
618 public property may occur prior to completion of an  
619 administrative hearing or other formal proceeding that might be  
620 initiated to abate the risk of serious harm, the department may  
621 obtain from the court, ex parte, an injunction without paying  
622 filing and service fees prior to the filing and service of  
623 process.

624 (e)(d) To abate or substantially reduce an imminent  
625 hazard, the department may take any appropriate action,  
626 including, but not limited to, using employees of the department  
627 or contracting with other state or federal agencies, with  
628 private third-party contractors, or with the owner or operator  
629 of the stack system, or financing, compensating, or funding a  
630 receiver, trustee, or owner of the stack system, to perform all



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631 or part of the work.

632 (f)~~(e)~~ The department shall recover from the owner or  
633 operator of the phosphogypsum stack system to the use of the  
634 Nonmandatory Land Reclamation Trust Fund all moneys expended  
635 from the fund, including funds expended prior to the effective  
636 date of this section, to abate an imminent hazard posed by the  
637 phosphogypsum stack system plus a penalty equal to an amount  
638 calculated at 30 percent of such funds expended. This penalty  
639 shall be imposed annually, and prorated from the date of payment  
640 from the fund until the expended funds and the penalty are  
641 repaid. If the department prevails in any action to recover  
642 funds pursuant to this subsection, it may recover reasonable  
643 attorney's fees and costs incurred. Phosphogypsum may not be  
644 deposited on a stack until all moneys expended from the fund in  
645 connection with the stack have been repaid, unless the  
646 department determines that such placement is necessary to abate  
647 or avoid an imminent hazard or unless otherwise authorized by  
648 the department.

649 (g)~~(f)~~ The department may impose a lien on the real  
650 property on which the phosphogypsum stack system that poses an  
651 imminent hazard is located and on the real property underlying  
652 and other assets located at associated phosphate fertilizer  
653 production facilities equal in amount to the moneys expended  
654 from the Nonmandatory Land Reclamation Trust Fund pursuant to  
655 paragraph (d), including attorney's fees and court costs. The  
656 owner of any property on which such a lien is imposed is  
657 entitled to a release of the lien upon payment to the department  
658 of the lien amount. The lien imposed by this section does not  
659 take priority over any other prior perfected lien on the real  
660 property, personal property, or other assets referenced in this



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661 paragraph, including, but not limited to, the associated  
662 phosphate rock mine and reserves.

663 (h) Upon a declaration by the Governor of an environmental  
664 emergency concerning the abatement of a imminent hazard  
665 involving a phosphogypsum stack or stack system, the state and  
666 any agent under contract with the state for the provision of  
667 services directly related to the abatement of such hazard shall  
668 not become liable under state laws for environmental protection  
669 for any costs, damages, or penalties associated with the  
670 abatement of the imminent hazard. The Legislature finds that  
671 provision of this limited immunity is in the public interest and  
672 necessary for the abatement of the imminent hazard.

673 (4) REGISTRATION FEES.--

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

681 2. The amount of the fee for each existing stack shall be  
682 \$75,000 for each of the five 12-month periods following July 1,  
683 2001.

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



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691 4. Within 30 days after a phosphogypsum stack has been  
692 certified as closed pursuant to rule 62-673.620(2) and (3),  
693 Florida Administrative Code, the department shall refund to the  
694 owner of the closed phosphogypsum stack an amount from the  
695 Nonmandatory Land Reclamation Trust Fund equal to the total  
696 amount of fee payments made by the owner or operator to the fund  
697 in connection with the closed phosphogypsum stack. However, no  
698 refund shall be paid until such time as the Mulberry and Piney  
699 Point phosphogypsum stack systems have been closed and a  
700 satisfactory reserve has been established in the Nonmandatory  
701 Reclamation Lands Trust Fund, ~~except that any refund becoming~~  
702 ~~payable prior to July 1, 2009, shall be paid to the owner on or~~  
703 ~~after that date.~~

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

709 Section 9. Section 403.4155, Florida Statutes, is amended  
710 to read:

711 403.4155 Phosphogypsum management; rulemaking authority.--

712 (1) The Department of Environmental Protection shall adopt  
713 rules to amend existing chapter 62-672, Florida Administrative  
714 Code, to ensure that impoundment structures and water conveyance  
715 piping systems used in phosphogypsum management are designed and  
716 maintained to meet critical safety standards. The rules must  
717 require that any impoundment structure used in a phosphogypsum  
718 stack system, together with all pumps, piping, ditches, drainage  
719 conveyances, water control structures, collection pools, cooling  
720 ponds, surge ponds, and any other collection or conveyance





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721 system associated with phosphogypsum transport, cooling water,  
722 or the return of process wastewater, is constructed using sound  
723 engineering practices and is operated to avoid spills or  
724 discharges of materials which adversely affect surface or ground  
725 waters. The rules must require that a phosphogypsum stack system  
726 owner maintain a log detailing the owner's operating inspection  
727 schedule, results, and any corrective action taken based on the  
728 inspection results. The rules must require phosphogypsum stack  
729 owners to maintain an emergency contingency plan and demonstrate  
730 the ability to mobilize equipment and manpower to respond to  
731 emergency situations at phosphogypsum stack systems. The rules  
732 must establish a reasonable time period not to exceed 12 months  
733 for facilities to meet the provisions of the rules adopted  
734 pursuant to this section.

735 (2)(a) By October 1, 2003, the department shall initiate  
736 rulemaking to require that phosphogypsum stack system operation  
737 plans required by department rule be amended by adding an  
738 interim stack system management (ISSM) plan that provides  
739 written instructions for the operation of the system assuming  
740 that no phosphoric acid would be produced at the facility for a  
741 2-year period. The initial ISSM plan shall be completed as of  
742 the first July 1 following the adoption of the rule required by  
743 this section. The ISSM plan shall include:

744 1. A detailed description of process water management  
745 procedures that will be implemented to ensure that the stack  
746 system operates in accordance with all applicable department  
747 permit conditions and rules. The procedures shall address the  
748 actual process water levels present at the facility 30 days  
749 prior to the completion of the plan and shall assume that the  
750 facility will receive annual average rainfall during the 2-year



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751 planning period.

752 2. A detailed description of the procedures to be followed  
753 for the daily operation and routine maintenance of the stack  
754 system, including required environmental sampling and analyses,  
755 as well as for any maintenance or repairs recommended following  
756 annual inspections of the system.

757 3. Identification of all machinery, equipment, and  
758 materials necessary to implement the plan.

759 4. Identification of the sources of power or fuel  
760 necessary to implement the plan.

761 5. Identification of the personnel necessary to implement  
762 the plan.

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

766 (c) The requirements listed in paragraphs (a) and (b) are  
767 applicable to all phosphogypsum stack systems except those which  
768 have been closed, which are undergoing closure, or for which an  
769 application for a closure permit has been submitted pursuant to  
770 department rule.

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

774 1. A description of the physical configuration of the  
775 phosphogypsum stack system anticipated at the time of closure at  
776 the end of useful life of the system.

777 2. A site-specific water management plan describing the  
778 procedures to be employed at the end of the useful life of the  
779 system to manage the anticipated volume of process water in an  
780 environmentally sound manner.



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781 3. An estimate of the cost of management of the  
 782 anticipated volume of process water in accordance with the site-  
 783 specific water management plan.

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

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

789 (b) The department shall revise chapter 62-673, Florida  
 790 Administrative Code, to require the owner or operator of a  
 791 phosphogypsum stack management system to demonstrate financial  
 792 responsibility for the costs of terminal closure of the  
 793 phosphogypsum stack system in a manner that protects the public  
 794 health and safety.

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

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

- 800 a. Bond.
- 801 b. Letter of credit.
- 802 c. Cash deposit arrangement.
- 803 d. Closure insurance.
- 804 e. Financial tests.
- 805 f. Corporate guarantee.

806

807 For the purposes of this section, a "cash deposit arrangement"  
 808 refers to a trust fund, business or statutory trust, escrow  
 809 account, or similar cash deposit entity whereby a fiduciary  
 810 holds and invests funds deposited by the owner or operator,



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811 which funds shall be expended only for the purpose of directly  
 812 implementing all or some portion of phosphogypsum stack system  
 813 closure requirements of that particular owner or operator.

814 3. A trustee, escrow agent, or other fiduciary of a cash  
 815 deposit arrangement authorized by this section shall have no  
 816 liability for any damage or loss of any kind arising out of or  
 817 caused by performance of duties imposed by the terms of the  
 818 applicable agreement except where such damage or loss is  
 819 directly caused by the gross negligence or criminal act of the  
 820 trustee, escrow agent, or other fiduciary. In performing its  
 821 duties pursuant to the applicable agreement, a trustee, escrow  
 822 agent, or other fiduciary shall be entitled to rely upon  
 823 information and direction received from the grantor or the  
 824 department without independent verification unless such  
 825 information and direction are manifestly in error:

826 4. To the extent that a cash deposit arrangement is used  
 827 to provide proof of financial responsibility for all or a  
 828 portion of closure costs, the trust, escrow, or cash arrangement  
 829 deposit entity shall be deemed to have assumed all liability for  
 830 such closure costs up to the amount of the cash deposit, less  
 831 any fees or costs of the trustee, escrow agent, or other  
 832 fiduciary.

833 5. Any funds maintained in a cash deposit arrangement  
 834 authorized by this section shall not be subject to claims of  
 835 creditors of the owner or operator and shall otherwise be exempt  
 836 from setoff, execution, levy, garnishment, and similar writs and  
 837 proceedings.

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



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841 shall be returned to the grantor.

842 (4) The department shall revise chapter 62-673, Florida  
843 Administrative Code, to require the owner or operator of a  
844 phosphogypsum stack system to demonstrate financial  
845 responsibility for the costs of terminal closure of the  
846 phosphogypsum stack system in a manner that protects the  
847 environment and the public health and safety. At a minimum, such  
848 rules shall include or address the following requirements:

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

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

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

856 3. All costs associated with long-term care of the closed  
857 system, including maintenance and monitoring, in accordance with  
858 department rules.

859 (b) That financial statements and financial data be  
860 prepared according to generally accepted accounting principles  
861 within the United States and submitted quarterly.

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

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

866 ~~(2) By January 31, 2002, the department shall review~~  
867 ~~chapter 62-673, Florida Administrative Code, to determine the~~  
868 ~~adequacy of the financial responsibility provisions contained in~~  
869 ~~the rules and shall take any measures necessary to ensure that~~  
870 ~~the rules provide sound and effective provisions to minimize~~



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871 ~~risk to the environment and to public health and safety from the~~  
872 ~~business failure of a phosphogypsum stack system.~~

873       Section 10. (1) The Department of Environmental  
874 Protection, in consultation with the Southwest Florida Water  
875 Management District, shall study cumulative impacts of changes  
876 in landform and hydrology in the Peace River Basin. The study  
877 shall evaluate cumulative impacts of activities conducted in the  
878 Peace River Basin prior to state regulation, or pursuant to an  
879 exemption, a permit, or a reclamation plan on water resources of  
880 the basin, including surface waters, groundwaters, fisheries,  
881 aquatic and estuarine habitat, and water supplies. The study  
882 shall also include an evaluation of the effectiveness of  
883 existing regulatory programs in avoiding, minimizing,  
884 mitigating, or compensating for cumulative impacts on water  
885 resources of the basin. In addition the study shall evaluate the  
886 environmental benefits, legal issues, and economic impacts of  
887 limiting activities, including mining activities, on waters and  
888 environmentally sensitive areas around waterbodies, by  
889 establishing a buffer within the 100-year floodplain of major  
890 perennial streams within the Peace River Basin, including the  
891 Peace River, Horse Creek, and the Myakka River. The study shall  
892 also recommend ways in which any buffer areas recommended as  
893 prohibited areas can be considered as mitigation under  
894 applicable permitting programs.

895       (2) Upon completion of the study, the department shall  
896 prepare and adopt a resource management plan for the Peace River  
897 Basin to minimize any identified existing and future adverse  
898 cumulative impacts to water resources of the basin, including  
899 surface waters, groundwaters, wetlands, fisheries, aquatic and  
900 estuarine habitat, and water supplies. The plan shall identify



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901 regulatory and nonregulatory actions necessary to minimize  
902 existing and future adverse cumulative impacts identified in the  
903 study and where appropriate, shall also recommend statutory  
904 changes to improve regulatory programs to minimize identified  
905 cumulative impacts to water resources of the basin.

906 (3) Rulemaking authority is granted to the Department of  
907 Environmental Protection and the Southwest Florida Water  
908 Management District to implement the regulatory recommendations  
909 identified in the study or the resource management plan.

910 (4) The resource management plan shall be submitted to the  
911 Governor, the Speaker of the House of Representatives and the  
912 President of the Senate no later than January 1, 2005.

913 (5) The department may use up to \$750,000 from the  
914 Nonmandatory Land Reclamation Trust Fund to prepare the study  
915 and plan required in this section.

916 (6) The department may establish a technical advisory  
917 committee to assist the department in developing a plan of  
918 study, reviewing interim findings, and reviewing final  
919 recommendations. The technical advisory committee may include  
920 representatives from the following interests in the Peace River  
921 Basin: industrial, mining, agriculture, development,  
922 environmental, fishing, regional water supply, and local  
923 government.

924 Section 11. For fiscal year 2003-2004, the sum of \$12.5  
925 million is hereby transferred from the Nonmandatory Land  
926 Reclamation Trust Fund to the General Revenue Fund.

927 Section 12. For fiscal year 2003-2004, the sum of \$800,000  
928 is appropriated to the Phosphate Research Trust Fund from the  
929 proceeds of the phosphate severance tax deposited into the  
930 Nonmandatory Land Reclamation Trust Fund. Such funds shall be



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931 used by the Florida Institute of Phosphate Research to conduct a  
 932 bench and pilot scale study of the FIPR/DIPR process for the  
 933 purpose of determining its technical and economic feasibility.  
 934 The study shall evaluate the availability, technical  
 935 feasibility, and cost of using various types of fiber,  
 936 including, but not limited to, paper and sewage sludge. The  
 937 study shall evaluate the technical feasibility and practicality  
 938 of various methods of using and disposing of the clay/fiber  
 939 product produced, including admixing the material with soil.

940       Section 13. If any law amended by this act was also  
 941 amended by a law enacted at the 2003 Regular Session of the  
 942 Legislature or the 2003 Special Session A of the Legislature,  
 943 such laws shall be construed as if they had been enacted at the  
 944 same session of the Legislature, and full effect shall be given  
 945 to each if possible.

946       Section 14. This act shall take effect upon becoming a  
 947 law.