

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative Stansel offered the following:

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3 **Amendment (with title amendment)**

4 On page 4, between lines 25 and 26, insert:

5 Section 5. Subsection (19) is added to section 373.414,  
6 Florida Statutes, to read:

7 373.414 Additional criteria for activities in surface  
8 waters and wetlands.--

9 (19)(a) Financial responsibility for mitigation for  
10 wetlands and other surface waters required by a permit issued  
11 pursuant to this part for activities associated with the  
12 extraction of phosphate are subject to approval by the  
13 department as part of the permit application review. Financial  
14 responsibility for permitted activities which will occur over a  
15 period of 3 years or less of mining operations must be provided

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16 to the department prior to the commencement of mining operations  
17 and shall be in an amount equal to 110 percent of the estimated  
18 mitigation costs for wetlands and other surface waters affected  
19 under the permit. For permitted activities which will occur over  
20 a period of more than 3 years of mining operations, the initial  
21 financial responsibility demonstration shall be in an amount  
22 equal to 110 percent of the estimated mitigation costs for  
23 wetlands and other surface waters affected in the first 3 years  
24 of operation under the permit; each year thereafter, the  
25 financial responsibility demonstration shall be updated,  
26 including to provide an amount equal to 110 percent of the  
27 estimated mitigation costs for the next year of operations under  
28 the permit for which financial responsibility has not already  
29 been demonstrated and to release portions of the financial  
30 responsibility mechanisms in accordance with applicable rules.

31 (b) The mechanisms for providing financial responsibility  
32 pursuant to the permit shall, at the discretion of the  
33 applicant, include the following:

- 34 1. Cash or cash equivalent deposited in an escrow account.
- 35 2. Irrevocable letter of credit.
- 36 3. Performance bond.
- 37 4. Trust fund agreement.
- 38 5. Guarantee bond.
- 39 6. Insurance certificate.
- 40 7. A demonstration that the applicant meets the financial  
41 test and corporate guarantee requirements set forth in 40 C.F.R.  
42 s. 264.143(f).

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43       8. A demonstration that the applicant meets the self-  
44 bonding provision set forth in 30 C.F.R. s. 800.23. The form and  
45 content of all financial responsibility mechanisms shall be  
46 approved by the department. When utilizing an irrevocable letter  
47 of credit, performance bond, or guarantee bond, all payments  
48 made thereunder shall be deposited into a stand-by trust fund  
49 established contemporaneously with the posting of the financial  
50 assurance instrument. All trust fund agreements and stand-by  
51 trust fund agreements shall provide that distributions therefrom  
52 will be made only at the request of the department and that the  
53 trustees of such funds shall be either national or state  
54 chartered banking institutions or state-regulated trust  
55 companies.

56       (c) The provisions of this subsection shall not apply to  
57 any wetlands mitigation that is required pursuant to a permit or  
58 permits initially issued by the department or district prior to  
59 January 1, 2005.

60       (d) Nothing provided herein supersedes or modifies the  
61 financial responsibility requirements of s. 378.209.

62       Section 6. Subsection (4) of section 10 of chapter 2003-  
63 423, Laws of Florida, is amended to read:

64       Section 10.

65       (4) The resource management plan shall be submitted to the  
66 Governor, the President of the Senate, and the Speaker of the  
67 House of Representatives no later than January 31, 2007 ~~July 1,~~  
68 ~~2005.~~

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70 ===== T I T L E A M E N D M E N T =====

71 On page 1, line 23, remove said line and insert:  
72 conforming a cross-reference; amending s. 373.414 F.S.;  
73 providing for submission of financial responsibility prior  
74 to the commencement of mining operations; providing for  
75 review of financial responsibility; providing mechanisms  
76 for providing financial responsibility; providing  
77 exclusions; clarifying intent; amending s. 10, ch. 2003-  
78 423, Laws of Florida; extending the due date of the Peace  
79 River Basin resource management plan; providing an