
SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 25, 1998 Revised: _____

Subject: Rulemaking Authority of the Department of Environmental Protection
Relating to Phosphogypsum Management

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill requires the Department of Environmental Protection (DEP) to adopt rules to ensure that phosphogypsum stack systems are operated to meet critical safety standards by July 1, 1999 and permits the DEP to deposit funds received from enforcement settlements in a local pollution recovery fund, if these funds were received due to joint enforcement action.

This bill amends section 403.1651, and creates an as yet unnumbered section of the Florida Statutes.

II. Present Situation:

On December 7, 1997, approximately 54 million gallons of acid-laden water spilled from the top of a gypsum stack owned and operated by Mulberry Phosphates and entered the Alafia River with devastating effects. Although the impact of the spill is still being evaluated, the DEP estimates that at least 10 million fish were killed as the acid plume traveled 37 miles down the river.

In processing phosphate, hot water containing acids is pumped to the top of the massive gypsum stacks to cool before being decanted and reused. In the December 7, 1997 incident, the berm containing the water, apparently weakened by the removal of a pipe two days before, gave way and the water overwhelmed the containment system below the stack, finding its way into the Alafia River.

Through ch. 62-672, F.A.C., the DEP has provided minimum requirements for earthen dams, phosphate mining and processing operations. These rules, however, do not specifically address temporary impoundment structures and water conveyance piping systems in detail.

Immediately after the December spill, the phosphate industry began working closely with the DEP to evaluate industry operating procedures to prevent future incidents of this nature. Although the study is not complete, each member company of the Florida Phosphate Council has agreed to implement interim measures designed to prevent future problems.

Pursuant to s. 403.1651, F.S., all moneys recovered by the state from actions to enforce ch. 373, F.S., and ch. 403, F.S., must be deposited into the Ecosystem Management and Restoration Trust Fund.

III. Effect of Proposed Changes:

Section 1. The bill directs the DEP to adopt rules to ensure that impoundment structures and water conveyance piping systems used in the phosphogypsum industry are designed and maintained to meet critical safety standards by July 1, 1999. The rules must require that any impoundment structure used in a phosphogypsum stack system together with all pumps, piping, ditches, drainage conveyances, water control structures,, collection pools, cooling ponds, surge ponds, and any other collection or conveyance system associated with phosphogypsum transport, cooling water, or the return of processed wastewater be constructed using sound engineering practices and are operated to avoid spills or discharges of materials which adversely affect surface or ground waters. The rules must require that a phosphogypsum stack system owner maintain a log detailing the owner's operating inspection schedule, results, and any corrective action taken based on the inspection results. The rules must require phosphogypsum stack owners to maintain an emergency contingency plan and demonstrate the ability to mobilize equipment and manpower to respond to emergency situations at phosphogypsum stack systems. The rules must establish a reasonable time period, not exceeding 12 months, to implement the rules.

Section 2. Section 403.1651, F.S., is amended to permit the DEP to enter into settlements in cases involving joint enforcement with a local pollution control program, as defined by s. 403.182, F.S., in which the department agrees that moneys are to be deposited into a local pollution recovery fund and used for projects giving first priority to restoring the environmental damage that was the cause of action for which funds were received and that are consistent with the purposes of the Ecosystem Management and Restoration Trust Fund.

The act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill itself has no direct impact on the private sector although the rules required to be developed could require additional expenditures by the industry.

C. Government Sector Impact:

The DEP will likely incur expenses in developing the rules, although this amount has not been estimated at this time.

Local governments could benefit from having funds received from enforcement actions deposited into their local pollution recovery funds by having increased control of the uses of such moneys.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.