inspection shall under no circumstances be classified as confidential by the department. Divulgence of proprietary information as is requested to be held confidential, except upon order of a court of competent jurisdiction or except to an officer of the state entitled to receive the same in his or her official capacity, shall be a misdemeanor of the second degree, punishable as provided in ss. 775.082 and 775.083. Nothing herein shall be construed to prohibit the publication or divulgence by other means of data so classified as to prevent identification of particular accounts or reports made to the department in compliance with s. 377.603 or to prohibit the disclosure of such information to properly qualified legislative committees. The department shall establish a system which permits reasonable access to information developed.

History.—ss. 6, 7, ch. 74-186; s. 1, ch. 77-174; s. 2, ch. 78-25; s. 10, ch. 89-117; s. 112, ch. 90-360; s. 9, ch. 91-113; s. 632, ch. 95-148; s. 179, ch. 96-406.

377.701 Petroleum allocation.—

(1) The Department of Community Affairs shall assume the state’s role in petroleum allocation and conservation, including the development of a fair and equitable petroleum plan. The department shall constitute the responsible state agency for performing the functions of any federal program delegated to the state, which relates to petroleum supply, demand, and allocation.

(2) The department shall, in addition to assuming the duties and responsibilities provided by subsection (1), perform the following:

(a) In projecting available supplies of petroleum, coordinate with the Department of Revenue to secure information necessary to assure the sufficiency and accuracy of data submitted by persons affected by any federal fuel allocation program.

(b) Require such periodic reports from public and private sources as may be necessary to the fulfillment of its responsibilities under this act. Such reports may include: petroleum use; all sales, including end-user sales, except retail gasoline and retail fuel oil sales; inventories; expected supplies and allocations; and petroleum conservation measures.

(c) In cooperation with the Department of Revenue and other relevant state agencies, provide for long-range studies regarding the usage of petroleum in the state in order to:

1. Comprehend the consumption of petroleum resources.
2. Predict future petroleum demands in relation to available resources.
3. Report the results of such studies to the Legislature.

(3) For the purpose of determining accuracy of data, all state agencies shall timely provide the department with petroleum-use information in a format suitable to the needs of the allocation program.

(4) No state employee shall divulge or make known in any manner any proprietary information acquired under this act if the disclosure of such information would be likely to cause substantial harm to the competitive position of the person providing such information and if the person requests that such information be held confidential, except in accordance with a court order or in the publication of statistical information compiled by methods which would not disclose the identity of individual suppliers or companies. Such proprietary information is confidential and exempt from the provisions of s. 119.07(1). Nothing in this subsection shall be construed to prevent inspection of reports by the Attorney General, members of the Legislature, and interested state agencies; however, such agencies and their employees and members are bound by the requirements set forth in this subsection.

(5) Any person who willfully fails to submit information required by this act or submits false information or who violates any provision of this act is guilty of a misdemeanor of the first degree and shall be punished as provided in ss. 775.082 and 775.083.

History.—ss. 1, 2, ch. 74-186; s. 2, ch. 75-256; s. 126, ch. 79-190; s. 31, ch. 81-169; s. 11, ch. 89-117; s. 113, ch. 90-360; s. 11, ch. 91-113; s. 180, ch. 96-406.
(g) To hold public hearings and consult with representatives of the phosphate industry and all other interested parties; to assign priorities for its research and studies; to make public from time to time its intentions as to future research and study; and to allocate its resources and personnel for such research and studies as it may determine from time to time to be in the public interest.

(h) To provide suitable and sufficient laboratory facilities and equipment, making use insofar as practical of the existing laboratory facilities and equipment of the State University System and other facilities as may be available, for carrying out the research and studies herein authorized.

(i) To administer the Phosphate Research Trust Fund and to expend funds therefrom for its administration and for carrying out the purposes set forth in this section. The Phosphate Research Trust Fund shall be subject to the service charge imposed pursuant to chapter 215.

(2) The institute may develop work products relating to research which is subject to trademark, copyright, or patent protection. Notwithstanding any law to the contrary, the institute may:

(a) Secure patents, copyrights, or trademarks on any of its work products and enforce its rights in such products. It shall consider contributions by institute personnel, contractors, and grantees in the development of such products and shall enter into written agreements with them establishing the interests of the respective parties in each patent, copyright, or trademark it secures.

(b) License, lease, or assign, or otherwise give consent to other persons for the manufacture or use of, work products it develops and receive royalties or other consideration for such use.

(c) Take any action necessary to protect its work products from improper or unlawful use or infringement.

(d) Collect any sums due it for the manufacture or use by any other person of such work products.

(e) Sell its interest in or rights to any work products it owns.

(f) Do all acts necessary to exercise its powers and perform its duties. Any action taken by the institute in securing or exploiting such patents, copyrights, or trademarks shall, within 30 days, be reported in writing to the Department of State. Any proceeds received by the institute under this subsection shall be deposited in the Phosphate Research Trust Fund for use as provided by law.

(3)(a) The institute may establish policies necessary to administer its research programs to assure their efficiency and effectiveness, producing the maximum benefit to the economy, environment, and residents of this state.

(b) Materials which relate to methods of manufacture or production, actual or potential trade secrets, patentable or potentially patentable materials, business transactions, or proprietary information pertaining to research conducted by or on behalf of the institute shall be confidential and exempt from the provisions of s. 119.07(1), except that the institute shall disclose, upon request, the title and description of any research project, the researchers’ names, and the amount and source of funding provided for such project.

(4)(a) The work of the Florida Institute of Phosphate Research shall be directed by a five-member board of directors appointed by the Governor. The board shall be composed of one member from the faculty of a university within the State University System, one member from a major conservation group in this state, one member from state government, and two members from the phosphate mining or processing industry. The Governor shall make these appointments on the basis of their ability to set priorities for the phosphate research and otherwise give direction to a professional, efficient, and broad phosphate research effort. In setting such priorities, emphasis shall be given to applied research which tends to solve real problems of the industry in which the public has a substantial interest.

(b) Members of the board of directors shall serve 3-year terms, or serve until successors are appointed; except that, of those members first appointed following October 1, 1983, one member shall be appointed for a term of 1 year; two members shall be appointed for terms of 2 years; and two members shall be appointed for terms of 3 years in order to achieve staggering of terms. A member of the board of directors shall be eligible for reappointment.

(c) A vacancy occurring other than by expiration of a term shall be filled by appropriate appointment for the remainder of the unexpired term in the same manner as the original appointment. However, no single vacancy in the board of directors shall impair the right of the remaining members to exercise the powers of the board of directors.

(d) The members of the board of directors shall select a chair.

(e) The policies and decisions of the board shall be implemented through an executive director chosen by the board on the basis of professional competence, both scientific and administrative.

(f) The board shall adopt rules necessary to carry out the duties and responsibilities of the institute.

History.—s. 6, ch. 76-136; s. 1, ch. 83-41; s. 16, ch. 83-339; s. 1, ch. 86-294; s. 1, ch. 86-23; s. 3, ch. 95-304; s. 12, ch. 89-117; s. 114, ch. 90-300; s. 638, ch. 95-146; s. 191, ch. 96-406.

PART III

PHOSPHATE LAND RECLAMATION

378.208 Financial responsibility.
378.211 Violations; damages; penalties.

378.208 Financial responsibility.—

(1) An operator of a mine shall provide appropriate financial assurance to the state that the reclamation of lands subject to the mandatory reclamation obligation will be completed in a timely manner. Compliance with the rate of reclamation established in s. 378.209 is deemed to be appropriate financial assurance.

(2) Operators who are not in compliance with the rate of reclamation established in s. 378.209 must post one or more of the following forms of security:

(a) A lien in favor of the state on unmined lands or on reclaimed and released real property owned in fee
simple absolute by the operator. No formal appraisal of the property shall be required; however, the unencumbered value of the property shall be comparable to the cost of reclamation established pursuant to subsection (4).

(b) A surety bond in either a fixed amount, adjusted annually for inflation, or in an amount to be determined based upon projected reclamation costs at the time the security is purchased.

(c) A letter of credit in either a fixed amount, adjusted annually for inflation, or in an amount to be determined based upon projected reclamation costs at the time the security is purchased.

(d) A donation of land acceptable to the state whereby every acre donated would relieve the company of the obligation to bond or otherwise provide security for the reclamation of acres mined, based on a ratio of 1 acre donated to cover the financial responsibility for 10 or more acres of mined lands. This donation would not relieve the operator of the obligation to reclaim.

(e) A cash deposit or trust fund payable to the state in a fixed amount, adjusted annually for inflation, or in an amount to be determined based upon projected reclamation costs at the time the cash deposit or trust fund is established.

(f) Any combination of the financial assurance methods allowed in paragraphs (a) through (e).

The form of security posted shall be at the option of the operator and shall cover the number of acres for which the operator is delinquent in reclaiming in the required time period as well as the number of acres that the operator must reclaim in the current 5-year period. The security, other than the donation of land, shall be released upon completion of reclamation of delinquent acres.

(3) Operators of mines in existence on July 1, 1978, shall have until July 1, 1988, to meet the rate of reclamation established in s. 378.209(1)(b) without incurring the obligation to post any form of security.

(4) The amount of financial responsibility shall be established by the secretary and shall not exceed $4,000 per acre for each reclamation program, adjusted annually by the appropriate inflationary index for construction. The Department of Insurance shall be available to assist the secretary in making this determination. In establishing the amount of financial responsibility, the secretary shall consider:

(a) The amount and type of reclamation involved.

(b) The probable cost of proper reclamation.

(c) Inflation rates.

(d) Changes in mining operations.

(5) The department shall adopt rules which establish:

(a) Procedures to establish, modify, or release the security posted.

(b) Procedures and criteria for modifications to or exemptions from the financial responsibility requirements when such modifications will not conflict with the purposes of this part, including consideration of such factors as the size or nature of the operation, demonstrated reclamation performance, and compliance with conceptual reclamation plans or reclamation programs approved prior to October 1, 1986.

(6) The department, by rule, may require each operator to submit a copy of its most recent annual financial statements. An operator’s submittal of its annual report on Form 10-K, as filed with the Securities and Exchange Commission, shall constitute compliance with this requirement. The financial statement submitted pursuant to rules authorized by this subsection, except for a financial statement that is a public record in the custody of another governmental agency, shall be confidential and exempt from the provisions of s. 119.07(1), and the department shall ensure the confidentiality of such statements.

History.—s. 1, ch. 86-294; s. 13, ch. 89-117; s. 115, ch. 90-360; s. 322, ch. 94-356; s. 182, ch. 96-406.

378.211 Violations; damages; penalties.—

(1) The department may institute a civil action in a court of competent jurisdiction for injunctive or other appropriate relief to enforce compliance with this part, for the assessment of damages, or for both injunctive relief and damages.

(2) The department may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty for violation of this part or of any rule adopted or order issued pursuant to this part. The penalty shall not exceed the following amounts, and the court shall consider evidence in mitigation:

(a) For violations of a minor or technical nature, $100 per violation.

(b) For major violations by an operator on which a penalty has not been imposed under this paragraph during the previous 5 years, $1,000 per violation.

(c) For major violations not covered by paragraph (b), $5,000 per violation.

Subject to the provisions of subsection (4), each day or any portion thereof in which the violation continues shall constitute a separate violation.

(3) The remedies provided for in subsections (1) and (2) shall not apply to the failure to comply with the requirements of s. 378.209. However, if an operator has failed to comply with the requirements of s. 378.209 and the department determines that the operator is unable or unlikely to come into compliance with those requirements within a reasonable time, then the department may institute a civil action in a court of competent jurisdiction to recover against the security provided pursuant to s. 378.208.

(4) As a condition precedent to the institution of any action authorized by subsection (1), subsection (2), or subsection (3), the department shall issue a written notice of violation to the operator setting forth in detail the alleged violation and specifying a reasonable time, not to exceed 90 days, in which to initiate corrective action. If the operator disputes the matters contained in the notice of violation, the operator may request a hearing pursuant to ss. 120.569 and 120.57. If a hearing is requested, the time for initiating corrective action shall not begin to run until a final order is entered. The civil penalties provided in subsection (2) shall not begin to accrue until the expiration of the time for initiating corrective action provided in the notice of violation issued by the department. Upon the expiration of the period provided in the notice, the department, in its discretion,
may institute the action provided for under subsection (1), subsection (2), or subsection (3), if the violation specified in the notice of violation has not been corrected.

(5) Penalties collected pursuant to subsection (2) shall be deposited to the credit of the Phosphate Research Trust Fund.

**History.**—s. 1, ch. 86-294; s. 110, ch. 96-410.

**PART IV**

**RESOURCE EXTRACTION RECLAMATION**

378.405 Reclamation review procedure.—

(1) All agency reviews conducted under this part are subject to this section. Within 30 days after receipt of an operator's conceptual reclamation plan, the department, the secretary, or the affected agency shall review the plan and shall request submittal of all additional information the agency is permitted by law to require. If the applicant believes any agency request for additional information is not authorized by law or agency rule, the applicant may request a hearing under ss. 120.569 and 120.57. Within 30 days after receipt of such additional information, the agency must review it and may request only such further information as is needed to clarify the additional information.

(2) If the applicant believes the request of the agency for such additional information is not authorized by law or agency rule, the agency, at the applicant's request, shall proceed to process the plan. A plan must be approved or denied within 90 days after receipt of the original plan, the last item of timely requested additional information, or the applicant's written request to begin processing the plan.

**History.**—s. 1, ch. 86-294; ss. 326, 510, ch. 94-356; s. 111, ch. 96-410.

378.406 Confidentiality of records; availability of information.—

(1)(a) Any information relating to prospecting, rock grades, or secret processes or methods of operation which may be required, ascertained, or discovered by inspection or investigation shall be exempt from the provisions of s. 119.07(1), shall not be disclosed in public hearings, and shall be kept confidential by any member, officer, or employee of the department, if the applicant requests the department to keep such information confidential and informs the department of the basis for such confidentiality. Should the operator determine that such information requested to be kept confidential shall not be kept confidential, the operator shall provide the department and each person affected with notice of his or her intent to release the information. When making his or her determination, the operator shall consider the public purposes specified in s. 119.14(4)(b).

(b) Nothing in this section shall be construed to prevent the use of such records in judicial proceedings when ordered to be produced by appropriate subpoena or by order of the court. No such subpoena or order of the court shall abridge or alter the rights or remedies of persons affected in the protection of trade secrets or secret processes in the manner provided by law, and such person affected may take any and all steps available by law to protect such trade secrets or processes. This section shall not prevent the department from providing such information to other agencies if the information is necessary to prepare the reports and studies required by this part. Agencies receiving such information shall be subject to the provisions of this section.

(2)(a) Except as provided in subsection (1), the department shall make available for public inspection and copying, during regular office hours, any information filed or submitted pursuant to this part.

(b) The secretary may charge a fee to cover the actual cost of duplicating the information filed or submitted pursuant to this part. "Actual cost of duplicating" means the cost of material and supplies used to duplicate the record, but it does not include the labor cost or overhead cost associated with such duplication.

(c) The fees charged for duplication of public records shall be deposited and accounted for in the manner prescribed for other operating funds of the agency.

**History.**—s. 1, ch. 86-294; s. 3, ch. 91-114; s. 377, ch. 94-366; s. 1054, ch. 95-148; s. 183, ch. 96-406.

*Note.~Repealed by s. 1, ch. 95-217.*

378.901 Life-of-the-mine permit.—

(1) As used in this section, the term:

(a) "Bureau" means the Bureau of Mine Reclamation of the Division of Environmental Resource Permitting of the Department of Environmental Protection.

(b) "Life-of-the-mine permit" means a permit authorizing activities regulated under part IV of chapter 373 and part IV of this chapter.

(2) As an alternative to, and in lieu of, separate applications for permits required by part IV of chapter 373 and part IV of this chapter, each operator who proposes to mine or extract heavy minerals or fuller's earth clay may apply to the bureau for a life-of-the-mine permit.

(3) Notwithstanding the provisions of s. 378.405, an application for a life-of-the-mine permit must be reviewed as follows:

(a) Within 30 days after receipt of an application for a permit under this section, the bureau shall review the application and shall request submittal of any additional information that the bureau requires. If the operator believes that the bureau is not authorized by law or rule to require any of the requested additional information, the operator may request a hearing pursuant to ss. 120.569 and 120.57. Within 30 days after receipt of the additional information, the bureau shall review it and may further request only that information needed to clarify the additional information or to answer new questions raised by or directly related to the additional information.

(b) If the operator believes that any further request of the bureau for information is not authorized by law or agency rule, the bureau, at the operator's request, shall proceed to process the permit application.

(c) A life-of-the-mine permit must be approved or denied by the bureau within 135 days after receipt of the original completed application, receipt of the timely requested additional information, or correction of errors or omissions. The 135-day period must be tolled in accordance with s. 120.60.

1241
PART I
ENVIRONMENTAL LAND AND WATER MANAGEMENT

380.05 Areas of critical state concern.
380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.
380.0558 Coral reef restoration.
380.06 Developments of regional impact.
380.061 The Florida Quality Developments program.
380.065 Certification of local government review of development.
380.0651 Statewide guidelines and standards.
380.0677 Green Swamp Land Authority.
380.07 Florida Land and Water Adjudicatory Commission.
380.11 Enforcement; procedures; remedies.

380.05 Areas of critical state concern.—
(1)(a) The state land planning agency may from time to time recommend to the Administration Commission specific areas of critical state concern. In its recommendation, the agency shall include recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Act of 1972. The agency also shall include any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.045; the dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner; a detailed boundary description of the proposed area; specific principles for guiding development within the area; an inventory of lands owned by the state, federal, county, and municipal governments within the proposed area; and a list of the state agencies with programs that affect the purpose of the designation. The agency shall recommend actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development. These actions may include, but shall not be limited to, revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements.
(b) Within 45 days following receipt of a recommendation from the agency, the commission shall either reject the recommendation as tendered or adopt the recommendation with or without modification and by rule designate the area of critical state concern. Any rule that designates an area of critical state concern must include:
1. A detailed boundary description of the area.
2. Principles for guiding development.
3. A clear statement of the purpose for the designation.
4. A precise checklist of actions which, when implemented, will result in repeal of the designation by the Administration Commission, and the agencies or entities responsible for taking those actions.

CHAPTER 380
LAND AND WATER MANAGEMENT