

1 A bill to be entitled
2 An act relating to fossil fuel combustion products;
3 creating s. 403.7047, F.S.; providing definitions;
4 providing standards for storage of certain fossil fuel
5 combustion products; providing an exemption for
6 beneficial use of fossil fuel combustion products from
7 certain rules; providing that the act does not
8 prohibit the Department of Environmental Protection
9 from taking appropriate action to regulate a
10 beneficial use in certain circumstances; providing
11 that the act does not limit other requirements
12 applicable to the beneficial use of fossil fuel
13 combustion products; providing that the act does not
14 limit the recovery of beneficial use products or the
15 authority of the department to approve the beneficial
16 use of materials other than fossil fuel combustion
17 products; clarifying that the act does not limit or
18 modify any fossil fuel combustion product beneficial
19 use previously approved by the department; amending s.
20 403.7222, F.S.; excluding certain types of facilities
21 from provisions on hazardous waste landfills;
22 providing an effective date.

23
24 WHEREAS, fossil fuel combustion products are currently used
25 in a variety of beneficial applications, and

26 WHEREAS, beneficial use of fossil fuel combustion products
27 allows certain industries and end users to avoid the mining and
28 processing of virgin materials through the substitution of

29 fossil fuel combustion products for virgin materials, thereby
 30 preserving natural resources and minimizing environmental
 31 emissions, and

32 WHEREAS, beneficial use of fossil fuel combustion products
 33 reduces the volume of materials placed in disposal facilities
 34 and ultimately lowers overall energy consumption required for
 35 processing and disposing of fossil fuel combustion products, and

36 WHEREAS, beneficial use of fossil fuel combustion products
 37 promotes economic activity, and

38 WHEREAS, beneficial use of fossil fuel combustion products
 39 is consistent with the purpose of Florida's Resource Recovery
 40 and Management Act and furthers the purpose of the act by
 41 encouraging waste reduction and recycling as a means of managing
 42 solid waste and conserving resources, and

43 WHEREAS, after balancing all the competing needs of the
 44 state, the Legislature has determined that it is in the state's
 45 best interest to conserve natural resources, reduce overall
 46 energy consumption, reduce or eliminate the need to dispose of
 47 fossil fuel combustion products in disposal facilities, and
 48 facilitate the development of readily available markets for
 49 fossil fuel combustion products, NOW, THEREFORE,

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

52
 53 Section 1. Section 403.7047, Florida Statutes, is created
 54 to read:

55 403.7047 Regulation of fossil fuel combustion products.-

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

57 (a) "Beneficial use" means the use of fossil fuel
58 combustion products as substitutes for raw materials or
59 products, or as necessary ingredients or additives in other
60 products according to accepted industry practices, including the
61 following:

62 1. Asphalt, concrete or cement products, flowable fill,
63 and roller-compacted concrete.

64 2. Structural fill or pavement aggregate that meets the
65 following requirements:

66 a. The fossil fuel combustion product is not in contact
67 with groundwater, surface water bodies, or wetlands and is not
68 placed within 25 feet of a potable well that is being used or
69 might be used for human or livestock water consumption; and

70 b. The placement of the fossil fuel combustion product
71 does not extend more than 4 feet beyond the outside edge of the
72 structure or pavement and is covered with 2 feet of soil.
73 Placement of the structure, pavement, or soil must be completed
74 as soon as practicable after placement of the fossil fuel
75 combustion product.

76 3. Roofing materials, blasting grit, or aggregate in
77 products.

78 4. Use of flue-gas emission control materials, which meet
79 the definition of gypsum and are used in accordance with
80 applicable Department of Agriculture and Consumer Services
81 rules.

82 5. Wallboard products, plastics, paints, and insulation
83 products.

84 6. Extraction or recovery of materials and compounds

85 contained within fossil fuel combustion products.

86 7. Waste stabilization or initial or intermediate cover
87 material used for lined Class I or Class III landfills, provided
88 that the material meets applicable department rules for landfill
89 cover or a landfill's permit conditions for cover.

90 8. Any other use that meets the criteria of s.
91 403.7045(1)(f) or that is approved by the department before use
92 as having an equivalent or reduced potential for environmental
93 impacts, when used in equivalent quantities, compared to the
94 substituted raw products or materials.

95 (b) "Fossil fuel combustion products" means fly ash,
96 bottom ash, boiler slag, flue-gas emission control materials,
97 and other nonhazardous materials, such as gasifier slag,
98 fluidized-bed combustion system products, and similar combustion
99 materials produced from the operation of a fossil fuel-fired
100 electric or steam generation facility, from a clean coal or
101 other innovative technology process at a fossil fuel-fired
102 electric or steam generation facility, or from any combination
103 thereof.

104 (c) "Fossil fuel-fired electric or steam generation
105 facility" means any electric or steam generation facility that
106 is fueled with coal, alone or in combination with petroleum
107 coke, oil, coal gas, natural gas, other fossil fuels, or
108 alternative fuels.

109 (d) "Pavement aggregate" means fossil fuel combustion
110 products used as sub-base material under or immediately adjacent
111 to a paved road, sidewalk, walkway, or parking lot as a
112 substitute for conventional aggregate, raw material, or soil.

113 (e) "Structural fill" means the use of a fossil fuel
114 combustion product as a substitute for a conventional aggregate,
115 raw material, or soil under or immediately adjacent to an
116 industrial or commercial building or structure. Structural fill
117 does not include uses of fossil fuel combustion products that
118 involve general filling or grading operations or valley fills.

119 (2) The storage of fossil fuel combustion products
120 destined for beneficial use must comply with applicable
121 department rules and be conducted in a manner that does not pose
122 a significant risk to public health or violate applicable air or
123 water quality standards.

124 (3) The beneficial use of fossil fuel combustion products
125 as provided in this section is exempt from regulation pursuant
126 to this part and rules hereunder, but the department may take
127 appropriate action if the beneficial use is demonstrated to be
128 causing violations of applicable air or water quality standards
129 or criteria in department rules, or if such beneficial use poses
130 a significant risk to public health. This section does not limit
131 any other requirements applicable to the beneficial use of
132 fossil fuel combustion products established under this chapter
133 or chapter 376 or under local or federal laws, including
134 requirements governing air pollution control permits, national
135 pollutant discharge elimination system permits, and water
136 quality certifications pursuant to s. 401 of the Clean Water
137 Act.

138 (4) Nothing in this section shall be construed to limit
139 the department's authority to approve the beneficial use of
140 materials other than fossil fuel combustion products as defined

141 in this section pursuant to other provisions of this part. This
142 section may not be construed to limit or otherwise modify any
143 fossil fuel combustion product beneficial use previously
144 approved by the department, use in the onsite construction of
145 surface impoundments, roads, or similar works at fossil fuel-
146 fired electric or steam generation facilities, or the recovery
147 of these products for beneficial use from fossil fuel combustion
148 product landfills, impoundments, or storage areas.

149 Section 2. Section 403.7222, Florida Statutes, is amended
150 to read:

151 403.7222 Prohibition of hazardous waste landfills.—

152 (1) As used in this section, the term "hazardous waste
153 landfill" means a disposal facility or part of a facility at
154 which hazardous waste that has not undergone treatment is placed
155 in or on land, including an injection well, which is not a land
156 treatment facility. However, hazardous waste may not be disposed
157 of through an injection well or other subsurface method of
158 disposal, which is defined as a Class IV well in 40 C.F.R. s.
159 144.6(d), except those Class I wells permitted for hazardous
160 waste disposal as of January 1, 1992. The department shall
161 annually review the operations of any such Class I well
162 permitted as of January 1, 1992, and prepare a report analyzing
163 any impact on groundwater systems. ~~Nothing in~~ This section may
164 not shall be construed to refer to the products of membrane
165 technology, including reverse osmosis, for the production of
166 potable water where disposal is through a Class I well as
167 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
168 corrective action activities conducted in accordance with 40

169 C.F.R. s. 144.13.

170 (2) The Legislature declares that, due to the permeability
171 of the soil and high water table in Florida, future hazardous
172 waste landfills are prohibited. Therefore, the department may
173 not issue a permit pursuant to s. 403.722 for a newly
174 constructed hazardous waste landfill. However, if by executive
175 order the Governor declares a hazardous waste management
176 emergency, the department may issue a permit for a temporary
177 hazardous waste landfill. Any such landfill shall be used only
178 until such time as an appropriate alternative method of disposal
179 can be derived and implemented. Such a permit may not be issued
180 for a period exceeding 6 months without a further declaration of
181 the Governor. A Class IV injection well, as defined in 40 C.F.R.
182 s. 144.6(d), may not be permitted for construction or operation
183 under this section.

184 (3) This section does not prohibit the department from
185 banning the disposal of hazardous waste in other types of waste
186 management units in a manner consistent with federal
187 requirements, except as provided under s. 403.804(2).

188 (4) This section does not apply to a disposal facility or
189 part of a facility that accepts fly ash, bottom ash, boiler
190 slag, or flue-gas emission control materials from the operation
191 of a fossil fuel-fired electric or steam generation facility,
192 from a clean coal or other innovative technology process at a
193 fossil fuel-fired electric or steam generation facility, or from
194 any combination thereof.

195 Section 3. This act shall take effect July 1, 2013.