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A bill to be entitled  
 An act relating to environmental protection; creating s.  
 403.7047, F.S.; exempting beneficial use of fossil fuel  
 combustion products from specified regulations; defining  
 "fossil fuel combustion products," "beneficial use,"  
 "structural fill," "pavement aggregate," "pipe bedding  
 aggregate," and "fossil fuel-fired electric or steam  
 generation facility"; providing requirements and  
 procedures for certain projects to be considered  
 beneficial use; requiring the Department of Transportation  
 to maintain certain plans; requiring that department to  
 notify the Department of Environmental Protection where  
 said plans are located; providing an effective date.

WHEREAS, fossil fuel combustion products are currently  
 utilized in a variety of beneficial applications, and

WHEREAS, beneficial use of fossil fuel combustion products  
 reduces the volume of materials placed in disposal facilities,  
 and

WHEREAS, beneficial use of fossil fuel combustion products  
 allows certain industries and end-users to avoid the mining and  
 processing of virgin materials through substitution of fossil  
 fuel combustion products, which preserves natural resources and  
 minimizes environmental emissions, and

WHEREAS, beneficial use of fossil fuel combustion products  
 ultimately lowers overall energy consumption required for  
 processing and disposing of fossil fuel combustion products, and

WHEREAS, beneficial use of fossil fuel combustion products  
 promotes economic activity while replacing limited natural  
 resources, and



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31 WHEREAS, beneficial use of fossil fuel combustion products  
 32 is consistent with and furthers the purpose of Florida's  
 33 Resource Recovery and Management Act by encouraging the  
 34 development of waste reduction and recycling as a means of  
 35 managing solid waste and conserving resources, and

36 WHEREAS, the Legislature has determined that it is in the  
 37 state's best interest to conserve natural resources, reduce  
 38 overall energy consumption, reduce or eliminate the need to  
 39 dispose of fossil fuel combustion products in disposal  
 40 facilities, and facilitate the development of readily available  
 41 markets for fossil fuel combustion products, and

42 WHEREAS, the Legislature is taking this action after  
 43 balancing all the competing needs of the state, NOW, THEREFORE,

44  
 45 Be It Enacted by the Legislature of the State of Florida:

46  
 47 Section 1. Section 403.7047, Florida Statutes, is created  
 48 to read:

49 403.7047 Regulation of fossil fuel combustion products.--

50 (1) The beneficial use of fossil fuel combustion products  
 51 as provided in this section is exempt from regulation pursuant  
 52 to part IV of chapter 403 and rules adopted thereunder. Nothing  
 53 in this section shall be construed to limit any other  
 54 requirements that are applicable to the beneficial use of fossil  
 55 fuel combustion products that are established under chapter 376  
 56 or chapter 403 or under local or federal laws, including,  
 57 without limitation, requirements governing air pollution control  
 58 permits, national pollutant discharge elimination system  
 59 permits, and water quality certifications pursuant to s. 401 of  
 60 the Clean Water Act, 33 U.S.C. ss. 1251 et seq.



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61 (2) As used in this section:

62 (a) "Fossil fuel combustion products" means fly ash,  
63 bottom ash, slag, flue gas desulfurization system products,  
64 gasified products, fluidized bed combustion system products, and  
65 other combustion products from the operation of a fossil fuel-  
66 fired electric or steam generation facility, any material from a  
67 clean coal or other innovative technology process at a fossil  
68 fuel-fired electric or steam generation facility, or any  
69 combination thereof.

70 (b) "Beneficial use" means the use or the handling,  
71 processing, transportation, or temporary storage for such use of  
72 fossil fuel combustion products or materials which incorporate  
73 fossil fuel combustion products as provided below:

74 1. Uses for structural fill, pavement aggregate, pipe  
75 bedding aggregate, aggregate, asphalt, concrete products, cement  
76 products, roofing materials, wallboard products, plastics,  
77 paint, metallurgical applications, insulation products, flowable  
78 fill and roller compacted concrete, fertilizer products,  
79 blasting grit, filter cloth precoat for sludge dewatering, waste  
80 stabilization, extraction or recovery of materials and compounds  
81 contained within fossil fuel combustion products, and drainage,  
82 capping, or cover material for lined Class I, Class II, or Class  
83 III landfills.

84 2. Discrete, controlled land application uses for  
85 agronomic value, land reclamation, and pilot demonstration  
86 projects that:

87 a. Are not likely to cause contamination in excess of  
88 applicable department air or water quality standards or can be  
89 demonstrated to have equivalent environmental impacts to those  
90 raw products or materials other than fossil fuel combustion



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91 products currently used in discrete, controlled land application  
92 uses for agronomic value, land reclamation, and pilot  
93 demonstration projects; and

94 b. Meet the requirements set forth in subsection (3).

95  
96 The beneficial uses of fossil fuel combustion products outlined  
97 in this subsection have been evaluated only with regard to the  
98 protection of human health and the environment. In the case of  
99 roadway applications, the beneficial use of fossil fuel  
100 combustion products shall be in accordance with Department of  
101 Transportation specifications, American Society for Testing and  
102 Materials specifications, or other generally recognized  
103 construction standards.

104 (c) "Structural fill" means the use of a fossil fuel  
105 combustion product as a substitute for a conventional aggregate,  
106 raw material, or soil under or immediately adjacent to a  
107 building or structure. "Structural fill" does not include uses  
108 that involve general filling or grading operations or valley  
109 fills.

110 (d) "Pavement aggregate" means the use of a fossil fuel  
111 combustion product as a sub-base material under or immediately  
112 adjacent to a paved road, sidewalk, walkway, or parking lot  
113 where the fossil fuel combustion product is a substitute for a  
114 conventional aggregate, raw material, or soil.

115 (e) "Pipe bedding aggregate" means the use of a fossil  
116 fuel combustion product as a substitute for a conventional  
117 aggregate, raw material, or soil under, around, or immediately  
118 adjacent to a water, sewer, or other pipeline.

119 (f) "Fossil fuel-fired electric or steam generation  
120 facility" includes any electric or steam generation facility



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121 that is fueled with coal, alone or in combination with petroleum  
 122 coke, oil, natural gas, other fossil fuels, or renewable energy  
 123 materials.

124 (3) In order for discrete, controlled land application  
 125 uses for agronomic value, land reclamation, and pilot  
 126 demonstration projects to be considered beneficial uses, the  
 127 following requirements must be met:

128 (a) Notification.--

129 1. A minimum of 30 days before using fossil fuel  
 130 combustion products for land application for agronomic value,  
 131 land reclamation, or pilot demonstration projects, the person  
 132 proposing the use shall submit a written notice to the  
 133 department. The notice shall contain, at a minimum:

134 a. A description of the nature, purpose, and location of  
 135 the project, including the name of the Unites States Geological  
 136 Survey seven and one-half minute map on which the project is  
 137 located and a Department of Transportation map or an 8 1/2 inch  
 138 by 11 inch topographic map showing the project.

139 b. The estimated start and completion dates for the  
 140 project.

141 c. An estimate of the volume of fossil fuel combustion  
 142 products to be used for the project.

143 d. A signed and dated statement by the owners of the site  
 144 on which the fossil fuel combustion products are used  
 145 acknowledging and consenting to the use of fossil fuel  
 146 combustion products for land application for agronomic value,  
 147 land reclamation, or pilot demonstration projects.

148 e. The notification shall include:

149 (I) The name of the fossil fuel combustion products  
 150 generator.



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- 151        (II) The physical location of the generating facility.  
152        (III) The address of the generator.  
153        (IV) The name of contact for the generator.  
154        (V) The telephone number of the generator.

155  
156 Changes to such information will require subsequent notification  
157 to the department.

158        2. In addition to the notification requirements under  
159 subparagraph 1., at least 30 days before using fossil fuel  
160 combustion products for land reclamation or pilot demonstration  
161 projects in volumes of more than 10,000 cubic yards, the person  
162 proposing the use shall submit a written notice to the  
163 department containing construction plans for the facility,  
164 including a stability analysis when necessary, which shall be  
165 prepared, signed, and sealed by a registered professional  
166 engineer in accordance with sound engineering practices. The  
167 Department of Transportation is not required to submit  
168 construction plans with the written notice. The Department of  
169 Transportation shall maintain a complete set of construction  
170 plans and shall notify the department where the construction  
171 plans are located.

172        (b) Storage.--Fossil fuel combustion products used for  
173 land application for agronomic value, land reclamation, or pilot  
174 demonstration projects may not be stored or speculatively  
175 accumulated at the immediate area where they will be put to  
176 beneficial use for a period of time longer than necessary to  
177 complete the project. Fossil fuel combustion products used for  
178 land application for agronomic value, land reclamation, or pilot  
179 demonstration projects are not being speculatively accumulated  
180 when a minimum of 51 percent of the fossil fuel combustion



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181 products at the project site are beneficially used annually.

182 Section 2. This act shall take effect July 1, 2003.