



CHAMBER ACTION

The Committee on Natural Resources recommends the following:

Committee Substitute

Remove the entire bill and insert:

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; providing handling, processing, and storage criteria; defining "fossil fuel combustion products," "beneficial use," and "fossil fuel-fired electric or steam generation facility"; requiring the Department of Environmental Protection to adopt rules relating to certain beneficial uses; amending s. 403.087, F.S.; adding hazardous waste corrective action permits to a list of approvals; amending s. 403.703, F.S.; expanding the definition of "construction and demolition debris"; amending s. 403.722, F.S.; adding a corrective action permit to a list of approvals; providing an effective date.

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



HB 1607

2003
CS

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

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

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

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

42 WHEREAS, beneficial use of fossil fuel combustion products
43 is consistent with and furthers the purpose of Florida's
44 Resource Recovery and Management Act by encouraging the
45 development of waste reduction and recycling as a means of
46 managing solid waste and conserving resources, and

47 WHEREAS, the Legislature has determined that it is in the
48 state's best interest to conserve natural resources, reduce
49 overall energy consumption, reduce or eliminate the need to
50 dispose of fossil fuel combustion products in disposal
51 facilities, and facilitate the development of readily available
52 markets for fossil fuel combustion products, and

53 WHEREAS, the Legislature is taking this action after
54 balancing all the competing needs of the state, NOW, THEREFORE,
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HB 1607

2003
CS

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

57

58 Section 1. Section 403.7047, Florida Statutes, is created
59 to read:

60 403.7047 Regulation of fossil fuel combustion products.--

61 (1) The beneficial use of fossil fuel combustion products
62 as provided in this section is exempt from regulation pursuant
63 to this part and rules adopted hereunder. Nothing in this
64 section shall limit the department's ability to take appropriate
65 action where a beneficial use can be demonstrated to be causing
66 violations of applicable air or water quality standards or
67 criteria in department rules or where such beneficial use poses
68 a significant risk to public health. This section shall not be
69 construed to limit any other requirements that are applicable to
70 the beneficial use of fossil fuel combustion products that are
71 established under this chapter or chapter 376, or under local or
72 federal laws, including, without limitation, requirements
73 governing air pollution control permits, national pollutant
74 discharge elimination system permits, and water quality
75 certifications pursuant to Section 401 of the Clean Water Act.

76 (2) The handling, processing, and storage of fossil fuel
77 combustion products destined for beneficial use shall be in
78 accordance with applicable department rules and shall be
79 conducted in a manner that does not cause violations of
80 applicable air or water quality standards or criteria in
81 department rules or pose a significant risk to public health.

82 (3) As used in this section:



HB 1607

2003
CS

83 (a) "Fossil fuel combustion products" means fly ash,
84 bottom ash, slag, flue gas desulfurization system products,
85 gasified products, fluidized bed combustion system products, and
86 other similar combustion products from the operation of a fossil
87 fuel-fired electric or steam generation facility, from a clean
88 coal or other innovative technology process at a fossil fuel-
89 fired electric or steam generation facility, or from any
90 combination thereof.

91 (b) "Fossil fuel-fired electric or steam generation
92 facility" includes any electric or steam generation facility
93 that is fueled with coal, alone or in combination with petroleum
94 coke, oil, natural gas, other fossil fuels, renewable energy
95 materials, or refuse-derived fuel where the refuse-derived fuel
96 does not exceed 10 percent of the total annual fuel input of a
97 unit located at a fossil fuel-fired electric or steam generation
98 facility.

99 (c) "Beneficial use" means the use of fossil fuel
100 combustion products or materials that incorporate fossil fuel
101 combustion products as substitutes for raw materials or as
102 necessary ingredients or additives in other products according
103 to accepted industry practices. Beneficial uses include the
104 following, except that subparagraphs 1.-7. shall apply only to
105 fossil fuel combustion products from fossil fuel-fired electric
106 or steam generation facilities that are fueled primarily with
107 coal:

108 1. Use involving encapsulation, including pavement
109 aggregate, asphalt, concrete or cement products, flowable fill,
110 and roller-compacted concrete.



HB 1607

2003
CS

- 111 2. Use as a substitute for aggregate in products,
112 including roofing materials or blasting grit.
- 113 3. Use in wallboard products, plastics, paint, and
114 insulation products.
- 115 4. Use in metallurgical applications.
- 116 5. Use as filter cloth precoat for sludge dewatering.
- 117 6. Use for extraction or recovery of materials and
118 compounds contained within fossil fuel combustion products.
- 119 7. Use as initial or intermediate cover material for lined
120 Class I, Class II, or Class III landfills, provided that it
121 meets applicable department rules for landfill cover.
- 122 8. Any other use authorized by the department in
123 accordance with subsection (4).
- 124 (4)(a) By January 1, 2004, the department shall initiate
125 rulemaking to provide criteria for the purpose of approving
126 beneficial uses of fossil fuel combustion products not already
127 established under subsection (3). Such beneficial uses may
128 include, but are not limited to, the use of fossil fuel
129 combustion products for structural fill, pipe bedding aggregate,
130 paving subbase, waste stabilization, agronomic applications,
131 land reclamation, or other application to land. Nothing in this
132 section shall be construed to limit the department's authority
133 to approve the beneficial use of materials other than fossil
134 fuel combustion products as defined in this section pursuant to
135 other provisions of this chapter.
- 136 (b) Such rules shall also address:
- 137 1. Creation of a demonstration and approval process for
138 the beneficial use of fossil fuel combustion products as set



HB 1607

2003
CS

139 forth in this subsection on a site-specific or statewide basis
140 where reasonable assurance is provided that applicable
141 department air or water quality standards or criteria in
142 department rules will not be violated and the beneficial use
143 will not pose a significant risk to public health. This process
144 shall authorize the beneficial use of fossil fuel combustion
145 products as replacements for raw materials or products where it
146 can be demonstrated that the potential impact on public health
147 and the environment will be essentially equivalent to those
148 replaced raw materials or products.

149 2. The onsite and offsite management of fossil fuel
150 combustion products destined for beneficial use. For offsite
151 management, the department shall develop appropriate best
152 management practices that are designed to allow flexibility in
153 the management of these products and that take into account the
154 relative environmental impact posed by the management of raw
155 materials or products that are similar to the fossil fuel
156 combustion products being managed so as not to impede the
157 purposes of this section to promote the beneficial use of fossil
158 fuel combustion products. Fossil fuel combustion products that
159 are destined for beneficial use and that are managed in
160 accordance with department rules shall not be regulated as solid
161 waste.

162 3. Public participation in accordance with applicable
163 provisions of chapter 120.

164 4. Appropriate beneficial uses of fossil fuel combustion
165 products from fossil fuel-fired electric or steam generating
166 facilities that burn primarily petroleum coke in combination



HB 1607

2003
CS

167 | with coal, which may include some or all of those uses specified
168 | in subparagraphs (3)(c)1.-7.

169 | Section 2. Paragraph (a) of subsection (6) of section
170 | 403.087, Florida Statutes, is amended to read:

171 | 403.087 Permits; general issuance; denial; revocation;
172 | prohibition; penalty.--

173 | (6)(a) The department shall require a processing fee in an
174 | amount sufficient, to the greatest extent possible, to cover the
175 | costs of reviewing and acting upon any application for a permit
176 | or request for site-specific alternative criteria or for an
177 | exemption from water quality criteria and to cover the costs of
178 | surveillance and other field services and related support
179 | activities associated with any permit or plan approval issued
180 | pursuant to this chapter. However, when an application is
181 | received without the required fee, the department shall
182 | acknowledge receipt of the application and shall immediately
183 | return the unprocessed application to the applicant and shall
184 | take no further action until the application is received with
185 | the appropriate fee. The department shall adopt a schedule of
186 | fees by rule, subject to the following limitations:

187 | 1. The fee for any of the following may not exceed
188 | \$32,500:

- 189 | a. Hazardous waste, construction permit.
190 | b. Hazardous waste, operation permit.
191 | c. Hazardous waste, postclosure permit, or clean closure
192 | plan approval.
193 | d. Hazardous waste, corrective action permit.



HB 1607

2003
CS

- 194 2. The permit fee for a Class I injection well
195 construction permit may not exceed \$12,500.
- 196 3. The permit fee for any of the following permits may not
197 exceed \$10,000:
- 198 a. Solid waste, construction permit.
 - 199 b. Solid waste, operation permit.
 - 200 c. Class I injection well, operation permit.
- 201 4. The permit fee for any of the following permits may not
202 exceed \$7,500:
- 203 a. Air pollution, construction permit.
 - 204 b. Solid waste, closure permit.
 - 205 c. Drinking water, construction or operation permit.
 - 206 d. Domestic waste residuals, construction or operation
207 permit.
 - 208 e. Industrial waste, operation permit.
 - 209 f. Industrial waste, construction permit.
- 210 5. The permit fee for any of the following permits may not
211 exceed \$5,000:
- 212 a. Domestic waste, operation permit.
 - 213 b. Domestic waste, construction permit.
- 214 6. The permit fee for any of the following permits may not
215 exceed \$4,000:
- 216 a. Wetlands resource management--(dredge and fill),
217 standard form permit.
 - 218 b. Hazardous waste, research and development permit.
 - 219 c. Air pollution, operation permit, for sources not
220 subject to s. 403.0872.



HB 1607

2003
CS

221 d. Class III injection well, construction, operation, or
222 abandonment permits.

223 7. The permit fee for Class V injection wells,
224 construction, operation, and abandonment permits may not exceed
225 \$750.

226 8. The permit fee for any of the following permits may not
227 exceed \$500:

228 a. Domestic waste, collection system permits.

229 b. Wetlands resource management--(dredge and fill and
230 mangrove alterations), short permit form.

231 c. Drinking water, distribution system permit.

232 9. The permit fee for stormwater operation permits may not
233 exceed \$100.

234 10. The general permit fees for permits that require
235 certification by a registered professional engineer or
236 professional geologist may not exceed \$500. The general permit
237 fee for other permit types may not exceed \$100.

238 11. The fee for a permit issued pursuant to s. 403.816 is
239 \$5,000, and the fee for any modification of such permit
240 requested by the applicant is \$1,000.

241 12. The regulatory program and surveillance fees for
242 facilities permitted pursuant to s. 403.088 or s. 403.0885, or
243 for facilities permitted pursuant to s. 402 of the Clean Water
244 Act, as amended, 33 U.S.C. ss. 1251 et seq., and for which the
245 department has been granted administrative authority, shall be
246 limited as follows:

247 a. The fees for domestic wastewater facilities shall not
248 exceed \$7,500 annually. The department shall establish a sliding



249 | scale of fees based on the permitted capacity and shall ensure
 250 | smaller domestic waste dischargers do not bear an inordinate
 251 | share of costs of the program.

252 | b. The annual fees for industrial waste facilities shall
 253 | not exceed \$11,500. The department shall establish a sliding
 254 | scale of fees based upon the volume, concentration, or nature of
 255 | the industrial waste discharge and shall ensure smaller
 256 | industrial waste dischargers do not bear an inordinate share of
 257 | costs of the program.

258 | c. The department may establish a fee, not to exceed the
 259 | amounts in subparagraphs 4. and 5., to cover additional costs of
 260 | review required for permit modification or construction
 261 | engineering plans.

262 | Section 3. Subsection (17) of section 403.703, Florida
 263 | Statutes, is amended to read:

264 | 403.703 Definitions.--As used in this act, unless the
 265 | context clearly indicates otherwise, the term:

266 | (17) "Construction and demolition debris" means discarded
 267 | materials generally considered to be not water-soluble and
 268 | nonhazardous in nature, including, but not limited to, steel,
 269 | glass, brick, concrete, asphalt roofing material, pipe, gypsum
 270 | wallboard, and lumber, from the construction or destruction of a
 271 | structure as part of a construction or demolition project or
 272 | from the renovation of a structure, and including rocks, soils,
 273 | tree remains, trees, and other vegetative matter that normally
 274 | results from land clearing or land development operations for a
 275 | construction project, including such debris from construction of
 276 | structures at a site remote from the construction or demolition



HB 1607

2003
CS

277 project site. Mixing of construction and demolition debris with
278 other types of solid waste will cause it to be classified as
279 other than construction and demolition debris. The term also
280 includes:

281 (a) Clean cardboard, paper, plastic, wood, and metal
282 scraps from a construction project;

283 (b) Except as provided in s. 403.707(12)(j), unpainted,
284 nontreated wood scraps from facilities manufacturing materials
285 used for construction of structures or their components and
286 unpainted, nontreated wood pallets provided the wood scraps and
287 pallets are separated from other solid waste where generated and
288 the generator of such wood scraps or pallets implements
289 reasonable practices of the generating industry to minimize the
290 commingling of wood scraps or pallets with other solid waste;
291 and

292 (c) Nonhazardous fiber-reinforced cement scrap waste from
293 facilities manufacturing fiber-reinforced cement products for
294 the construction industry, provided the waste is separated from
295 other solid waste where generated and the generator of such
296 waste implements reasonable practices of the generating industry
297 to minimize commingling of the fiber-reinforced cement scrap
298 waste with other solid waste; and

299 (d)(e) De minimis amounts of other nonhazardous wastes
300 that are generated at construction or destruction projects,
301 provided such amounts are consistent with best management
302 practices of the industry.

303 Section 4. Subsection (1) of section 403.722, Florida
304 Statutes, is amended to read:



HB 1607

2003
CS

305 | 403.722 Permits; hazardous waste disposal, storage, and
306 | treatment facilities.--

307 | (1) Each person who intends to construct, modify, operate,
308 | or close a hazardous waste disposal, storage, or treatment
309 | facility shall obtain a construction permit, operation permit,
310 | postclosure permit, ~~or~~ clean closure plan approval, or
311 | corrective action permit from the department prior to
312 | constructing, modifying, operating, or closing the facility. By
313 | rule, the department may provide for the issuance of a single
314 | permit instead of any two or more hazardous waste facility
315 | permits.

316 | Section 5. This act shall take effect July 1, 2003.