

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:

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 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 building materials, substitutes for raw
59 materials or products, or as necessary ingredients or additives
60 in other products according to accepted industry practices,
61 including the 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, provided it is covered with 2 feet of
73 soil. Placement of the structure, pavement, or soil must be
74 completed as soon as practicable after placement of the fossil
75 fuel combustion product.

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

80 4. Waste stabilization, or initial or intermediate cover
81 material used for lined Class I or Class III landfills, provided
82 that the material meets applicable department rules for landfill
83 cover or a landfill's permit conditions for cover.

84 5. Any other use that meets the criteria of s.

85 403.7045(1)(f) or that is approved by the department before use
86 as having an equivalent or reduced potential for environmental
87 impacts, when used in equivalent quantities, compared to the
88 substituted raw products or materials.

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

98 (c) "Fossil fuel-fired electric or steam generation
99 facility" means any electric or steam generation facility that
100 is fueled with coal, alone or in combination with petroleum
101 coke, oil, coal gas, natural gas, other fossil fuels, or
102 alternative fuels.

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

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

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

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

132 (4) Nothing in this section shall be construed to limit
133 the department's authority to approve the beneficial use of
134 materials other than fossil fuel combustion products as defined
135 in this section pursuant to other provisions of this part. This
136 section may not be construed to limit or otherwise modify any
137 fossil fuel combustion product beneficial use previously
138 approved by the department, use in the onsite construction of
139 surface impoundments, roads, or similar works at fossil fuel-
140 fired electric or steam generation facilities, or the recovery

141 of these products for beneficial use from fossil fuel combustion
142 product landfills, impoundments, or storage areas.

143 Section 2. Section 403.7222, Florida Statutes, is amended
144 to read:

145 403.7222 Prohibition of hazardous waste landfills.—

146 (1) As used in this section, the term "hazardous waste
147 landfill" means a disposal facility or part of a facility at
148 which hazardous waste that has not undergone treatment is placed
149 in or on land, including an injection well, which is not a land
150 treatment facility. However, hazardous waste may not be disposed
151 of through an injection well or other subsurface method of
152 disposal, which is defined as a Class IV well in 40 C.F.R. s.
153 144.6(d), except those Class I wells permitted for hazardous
154 waste disposal as of January 1, 1992. The department shall
155 annually review the operations of any such Class I well
156 permitted as of January 1, 1992, and prepare a report analyzing
157 any impact on groundwater systems. ~~Nothing in~~ This section may
158 not shall be construed to refer to the products of membrane
159 technology, including reverse osmosis, for the production of
160 potable water where disposal is through a Class I well as
161 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
162 corrective action activities conducted in accordance with 40
163 C.F.R. s. 144.13.

164 (2) The Legislature declares that, due to the permeability
165 of the soil and high water table in Florida, future hazardous
166 waste landfills are prohibited. Therefore, the department may
167 not issue a permit pursuant to s. 403.722 for a newly
168 constructed hazardous waste landfill. However, if by executive

169 order the Governor declares a hazardous waste management
170 emergency, the department may issue a permit for a temporary
171 hazardous waste landfill. Any such landfill shall be used only
172 until such time as an appropriate alternative method of disposal
173 can be derived and implemented. Such a permit may not be issued
174 for a period exceeding 6 months without a further declaration of
175 the Governor. A Class IV injection well, as defined in 40 C.F.R.
176 s. 144.6(d), may not be permitted for construction or operation
177 under this section.

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

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

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