

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 in building products, and as substitutes for  
59 raw materials, necessary ingredients, or additives in products  
60 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 100 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 beyond the outside edge of the structure or  
72 pavement. Placement of the structure or pavement must be  
73 completed as soon as practicable after placement of the fossil  
74 fuel combustion product.

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

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

83        5. Any other use that meets the criteria of s.  
84 403.7045(1)(f) or that is approved by the department before use

85 as having an equivalent or reduced potential for environmental  
86 impacts, when used in equivalent quantities, compared to the  
87 substituted raw products or materials.

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

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

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

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

112 (2) The storage of fossil fuel combustion products

113 destined for beneficial use must comply with applicable  
114 department rules and be conducted in a manner that does not pose  
115 a significant risk to public health or violate applicable air or  
116 water quality standards.

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

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

141 product landfills, impoundments, or storage areas.

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

144 403.7222 Prohibition of hazardous waste landfills.—

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

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

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

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

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

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