



379170

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2013	.	
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The Committee on Environmental Preservation and Conservation
(Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

403.7047 Regulation of fossil fuel combustion products.-

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

(a) "Beneficial use" means the use of fossil fuel
combustion products as building products, substitutes for raw
materials, necessary ingredients, or additives in products,
according to accepted industry practices, including the



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13 following:

14 1. Asphalt, concrete or cement products, flowable fill, and
15 roller-compacted concrete.

16 2. Structural fill or pavement aggregate that meets the
17 following requirements:

18 a. The fossil fuel combustion product is not in contact
19 with groundwater, surface water bodies, or wetlands and is not
20 placed within 100 feet of a potable well that is being used or
21 might be used for human or livestock water consumption; and

22 b. The placement of the fossil fuel combustion product does
23 not extend beyond the outside edge of the structure or pavement.
24 Placement of the structure or pavement must be completed as soon
25 as practicable after placement of the fossil fuel combustion
26 product.

27 3. Use of flue-gas emission control materials which meet
28 the definition of gypsum and are used in accordance with
29 applicable Florida Department of Agriculture and Consumer
30 Services rules.

31 4. Waste stabilization, or initial or intermediate cover
32 material used for lined Class I or III landfills, provided that
33 the material meets applicable department rules for landfill
34 cover or a landfill's permit conditions for cover.

35 5. Any other use that meets the criteria of
36 s.403.7045(1)(f) or that is approved by the department prior to
37 use as having an equivalent or reduced potential for
38 environmental impacts, when used in equivalent quantities,
39 compared to the substituted raw products or materials.

40 (b) "Fossil fuel combustion products" means fly ash, bottom
41 ash, boiler slag, flue-gas emission control materials, and other



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42 non-hazardous materials, such as gasifier slag, fluidized-bed
43 combustion system products, and similar combustion materials
44 produced from the operation of a fossil fuel-fired electric or
45 steam generation facility, from a clean coal or other innovative
46 technology process at a fossil fuel-fired electric or steam
47 generation facility, or from any combination thereof.

48 (c) "Fossil fuel-fired electric or steam generation
49 facility" means any electric or steam generation facility that
50 is fueled with coal, alone or in combination with petroleum
51 coke, oil, coal gas, natural gas, other fossil fuels, or
52 alternative fuels.

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

57 (e) "Structural fill" means the use of a fossil fuel
58 combustion product as a substitute for a conventional aggregate,
59 raw material, or soil under an industrial or commercial building
60 or structure. Structural fill does not include uses of fossil
61 fuel combustion products that involve general filling or grading
62 operations or valley fills.

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

68 (3) Fossil fuel combustion products beneficially used in
69 accordance with this section are not subject to regulation as a
70 solid or hazardous waste, but the department may take



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71 appropriate action if the beneficial use is demonstrated to be
72 causing violations of applicable air or water quality standards
73 or criteria in department rules, or if such beneficial use poses
74 a significant risk to public health. This section does not
75 limit any other requirements applicable to the beneficial use of
76 fossil fuel combustion products established under this chapter
77 or chapter 376 or under local or federal laws, including
78 requirements governing air pollution control permits, national
79 pollutant discharge elimination system permits, and water
80 quality certifications pursuant to s. 401 of the Clean Water
81 Act.

82 (4) Nothing in this section shall be construed to limit the
83 department's authority to approve the beneficial use of
84 materials other than fossil fuel combustion products as defined
85 in this section pursuant to other provisions of this part. This
86 section may not be construed to limit or otherwise modify any
87 fossil fuel combustion product beneficial use previously
88 approved by the department, use in the onsite construction of
89 surface impoundments, roads, or similar works at fossil fuel-
90 fired electric or steam generation facilities, or the recovery
91 of these products for beneficial use from fossil fuel combustion
92 product landfills, impoundments, or storage areas.

93 Section 2. Section 403.7222, Florida Statutes, is amended
94 to read:

95 403.7222 Prohibition of hazardous waste landfills.—

96 (1) As used in this section, the term "hazardous waste
97 landfill" means a disposal facility or part of a facility at
98 which hazardous waste that has not undergone treatment is placed
99 in or on land, including an injection well, which is not a land



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100 treatment facility. However, hazardous waste may not be disposed
101 of through an injection well or other subsurface method of
102 disposal, which is defined as a Class IV well in 40 C.F.R. s.
103 144.6(d), except those Class I wells permitted for hazardous
104 waste disposal as of January 1, 1992. The department shall
105 annually review the operations of any such Class I well
106 permitted as of January 1, 1992, and prepare a report analyzing
107 any impact on groundwater systems. ~~Nothing in~~ This section may
108 not shall be construed to refer to the products of membrane
109 technology, including reverse osmosis, for the production of
110 potable water where disposal is through a Class I well as
111 defined in 40 C.F.R. s. 144.6(a), or to refer to remedial or
112 corrective action activities conducted in accordance with 40
113 C.F.R. s. 144.13.

114 (2) The Legislature declares that, due to the permeability
115 of the soil and high water table in Florida, future hazardous
116 waste landfills are prohibited. Therefore, the department may
117 not issue a permit pursuant to s. 403.722 for a newly
118 constructed hazardous waste landfill. However, if by executive
119 order the Governor declares a hazardous waste management
120 emergency, the department may issue a permit for a temporary
121 hazardous waste landfill. Any such landfill shall be used only
122 until such time as an appropriate alternative method of disposal
123 can be derived and implemented. Such a permit may not be issued
124 for a period exceeding 6 months without a further declaration of
125 the Governor. A Class IV injection well, as defined in 40 C.F.R.
126 s. 144.6(d), may not be permitted for construction or operation
127 under this section.

128 (3) This section does not prohibit the department from



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129 banning the disposal of hazardous waste in other types of waste
130 management units in a manner consistent with federal
131 requirements, except as provided under s. 403.804(2).

132 (4) This section does not apply to a disposal facility or
133 part of a facility that accepts fly ash, bottom ash, boiler
134 slag, or flue-gas emission control materials from the operation
135 of a fossil fuel-fired electric or steam generation facility,
136 from a clean coal or other innovative technology process at a
137 fossil fuel-fired electric or steam generation facility, or from
138 any combination thereof.

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

140
141 ===== T I T L E A M E N D M E N T =====

142 And the title is amended as follows:

143 Delete everything before the enacting clause
144 and insert:

145 A bill to be entitled
146 An act relating to fossil fuel combustion products;
147 creating s. 403.7047, F.S.; providing definitions; providing
148 standards for storage of certain fossil fuel combustion
149 products; providing an exemption for beneficial use of fossil
150 fuel combustion products from certain rules; providing that the
151 act does not prohibit the Department of Environmental Protection
152 from taking appropriate action to regulate a beneficial use in
153 certain circumstances; providing that the act does not limit
154 other requirements applicable to the beneficial use of fossil
155 fuel combustion products; providing that the act does not limit
156 the recovery of beneficial use products or the authority of the
157 department to approve the beneficial use of materials other than



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158 fossil fuel combustion products; clarifying that the act does
159 not limit or modify any fossil fuel combustion product
160 beneficial use previously approved by the department; amending
161 s. 403.7222, F.S.; excluding certain types of facilities from
162 provisions on hazardous waste landfills; providing an effective
163 date.

164

165 WHEREAS, fossil fuel combustion products are currently used
166 in a variety of beneficial applications, and

167 WHEREAS, beneficial use of fossil fuel combustion products
168 allows certain industries and end users to avoid the mining and
169 processing of virgin materials through the substitution of
170 fossil fuel combustion products for virgin materials, thereby
171 preserving natural resources and minimizing environmental
172 emissions, and

173 WHEREAS, beneficial use of fossil fuel combustion products
174 reduces the volume of materials placed in disposal facilities
175 and ultimately lowers overall energy consumption required for
176 processing and disposing of fossil fuel combustion products, and

177 WHEREAS, beneficial use of fossil fuel combustion products
178 promotes economic activity, and

179 WHEREAS, beneficial use of fossil fuel combustion products
180 is consistent with the purpose of Florida's Resource Recovery
181 and Management Act and furthers the purpose of the act by
182 encouraging waste reduction and recycling as a means of managing
183 solid waste and conserving resources, and

184 WHEREAS, after balancing all the competing needs of the
185 state, the Legislature has determined that it is in the state's
186 best interest to conserve natural resources, reduce overall



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187 energy consumption, reduce or eliminate the need to dispose of
188 fossil fuel combustion products in disposal facilities, and
189 facilitate the development of readily available markets for
190 fossil fuel combustion products, NOW, THEREFORE,