

By the Committee on Environmental Preservation and Conservation;  
and Senator Simpson

592-02850-13

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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

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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,

50  
51 Be It Enacted by the Legislature of the State of Florida:

52  
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 products, substitutes for raw

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59 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, and  
63 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 does  
71 not extend beyond the outside edge of the structure or pavement.  
72 Placement of the structure or pavement must be completed as soon  
73 as practicable after placement of the fossil fuel combustion  
74 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 Florida Department of Agriculture and Consumer  
78 Services rules.

79 4. Waste stabilization, or initial or intermediate cover  
80 material used for lined Class I or III landfills, provided that  
81 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  
84 s.403.7045(1) (f) or that is approved by the department prior to  
85 use as having an equivalent or reduced potential for  
86 environmental impacts, when used in equivalent quantities,  
87 compared to the substituted raw products or materials.

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

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

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

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

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

116        (3) Fossil fuel combustion products beneficially used in

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

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

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

143 403.7222 Prohibition of hazardous waste landfills.—

144 (1) As used in this section, the term "hazardous waste  
145 landfill" means a disposal facility or part of a facility at

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

162 (2) The Legislature declares that, due to the permeability  
163 of the soil and high water table in Florida, future hazardous  
164 waste landfills are prohibited. Therefore, the department may  
165 not issue a permit pursuant to s. 403.722 for a newly  
166 constructed hazardous waste landfill. However, if by executive  
167 order the Governor declares a hazardous waste management  
168 emergency, the department may issue a permit for a temporary  
169 hazardous waste landfill. Any such landfill shall be used only  
170 until such time as an appropriate alternative method of disposal  
171 can be derived and implemented. Such a permit may not be issued  
172 for a period exceeding 6 months without a further declaration of  
173 the Governor. A Class IV injection well, as defined in 40 C.F.R.  
174 s. 144.6(d), may not be permitted for construction or operation

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175 under this section.

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

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

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