

By the Committees on Community Affairs; and Environmental Preservation and Conservation; and Senator Simpson

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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,

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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

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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, 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.