

2013682er

1
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

2013682er

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 in building products, and as substitutes for

2013682er

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 placed within
67 3 feet of groundwater or 15 feet of wetlands or natural water
68 bodies, or within 100 feet of a potable well that is being used
69 or might be used for human or livestock water consumption;

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 c. The fossil fuel combustion product is not placed so that
76 such product, or any constituent thereof, may enter other lands
77 or be emitted into the air or discharged into any waters,
78 including groundwaters, or otherwise enter the environment in a
79 manner that causes a significant threat to public health or
80 contamination in excess of applicable department standards and
81 criteria; and

82 d. The owner or duly authorized agent of the owner of the
83 property where the product is placed has given the department
84 written notice, which may be submitted electronically, of the
85 dates, placement locations, and types of fossil fuel combustion
86 products used for structural fill or pavement aggregate.

87 3. Use of flue-gas emission control materials which meet

2013682er

88 the definition of gypsum and are used in accordance with
89 applicable Florida Department of Agriculture and Consumer
90 Services rules.

91 4. Waste stabilization, or initial or intermediate cover
92 material used for lined Class I or III landfills, provided that
93 the material meets applicable department rules for landfill
94 cover or a landfill's permit conditions for cover.

95 5. Any other use that meets the criteria of s.
96 403.7045(1)(f) or that is approved by the department prior to
97 use as having an equivalent or reduced potential for
98 environmental impacts, when used in equivalent quantities,
99 compared to the substituted raw products or materials.

100 (b) "Fossil fuel combustion products" means fly ash, bottom
101 ash, boiler slag, flue-gas emission control materials, and other
102 non-hazardous materials, such as gasifier slag, fluidized-bed
103 combustion system products, and similar combustion materials
104 produced from the operation of a fossil fuel-fired electric or
105 steam generation facility, from a clean coal or other innovative
106 technology process at a fossil fuel-fired electric or steam
107 generation facility, or from any combination thereof.

108 (c) "Fossil fuel-fired electric or steam generation
109 facility" means any electric or steam generation facility that
110 is fueled with coal, alone or in combination with petroleum
111 coke, oil, coal gas, natural gas, other fossil fuels, or
112 alternative fuels.

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

2013682er

117 (e) "Structural fill" means the use of a fossil fuel
118 combustion product as a substitute for a conventional aggregate,
119 raw material, or soil under an industrial or commercial building
120 or structure. Structural fill does not include uses of fossil
121 fuel combustion products that involve general filling or grading
122 operations or valley fills.

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

128 (3) Fossil fuel combustion products beneficially used in
129 accordance with this section are not subject to regulation as a
130 solid or hazardous waste, but the department may take
131 appropriate action if the beneficial use is demonstrated to be
132 causing violations of applicable air or water quality standards
133 or criteria in department rules, or if such beneficial use poses
134 a significant risk to public health. This section does not
135 limit any other requirements applicable to the beneficial use of
136 fossil fuel combustion products established under this chapter
137 or chapter 376 or under local or federal laws, including
138 requirements governing air pollution control permits, national
139 pollutant discharge elimination system permits, and water
140 quality certifications pursuant to s. 401 of the Clean Water
141 Act.

142 (4) Nothing in this section shall be construed to limit the
143 department's authority to approve the beneficial use of
144 materials other than fossil fuel combustion products as defined
145 in this section pursuant to other provisions of this part. This

2013682er

146 section may not be construed to limit or otherwise modify any
147 fossil fuel combustion product beneficial use previously
148 approved by the department, use in the onsite construction of
149 surface impoundments, roads, or similar works at fossil fuel-
150 fired electric or steam generation facilities, or the recovery
151 of these products for beneficial use from fossil fuel combustion
152 product landfills, impoundments, or storage areas.

153 Section 2. Section 403.7222, Florida Statutes, is amended
154 to read:

155 403.7222 Prohibition of hazardous waste landfills.—

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

174 (2) The Legislature declares that, due to the permeability

2013682er

175 of the soil and high water table in Florida, future hazardous
176 waste landfills are prohibited. Therefore, the department may
177 not issue a permit pursuant to s. 403.722 for a newly
178 constructed hazardous waste landfill. However, if by executive
179 order the Governor declares a hazardous waste management
180 emergency, the department may issue a permit for a temporary
181 hazardous waste landfill. Any such landfill shall be used only
182 until such time as an appropriate alternative method of disposal
183 can be derived and implemented. Such a permit may not be issued
184 for a period exceeding 6 months without a further declaration of
185 the Governor. A Class IV injection well, as defined in 40 C.F.R.
186 s. 144.6(d), may not be permitted for construction or operation
187 under this section.

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

192 (4) This section does not apply to a disposal facility or
193 part of a facility that accepts fly ash, bottom ash, boiler
194 slag, or flue-gas emission control materials from the operation
195 of a fossil fuel-fired electric or steam generation facility,
196 from a clean coal or other innovative technology process at a
197 fossil fuel-fired electric or steam generation facility, or from
198 any combination thereof.

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